# TODAY'S EDUCATION

The Journal of the NATIONAL EDUCATION ASSOCIATION

February/March 1980


## SOCIAL STUDIES EDITION

## POLITICS 1980

See page 26.

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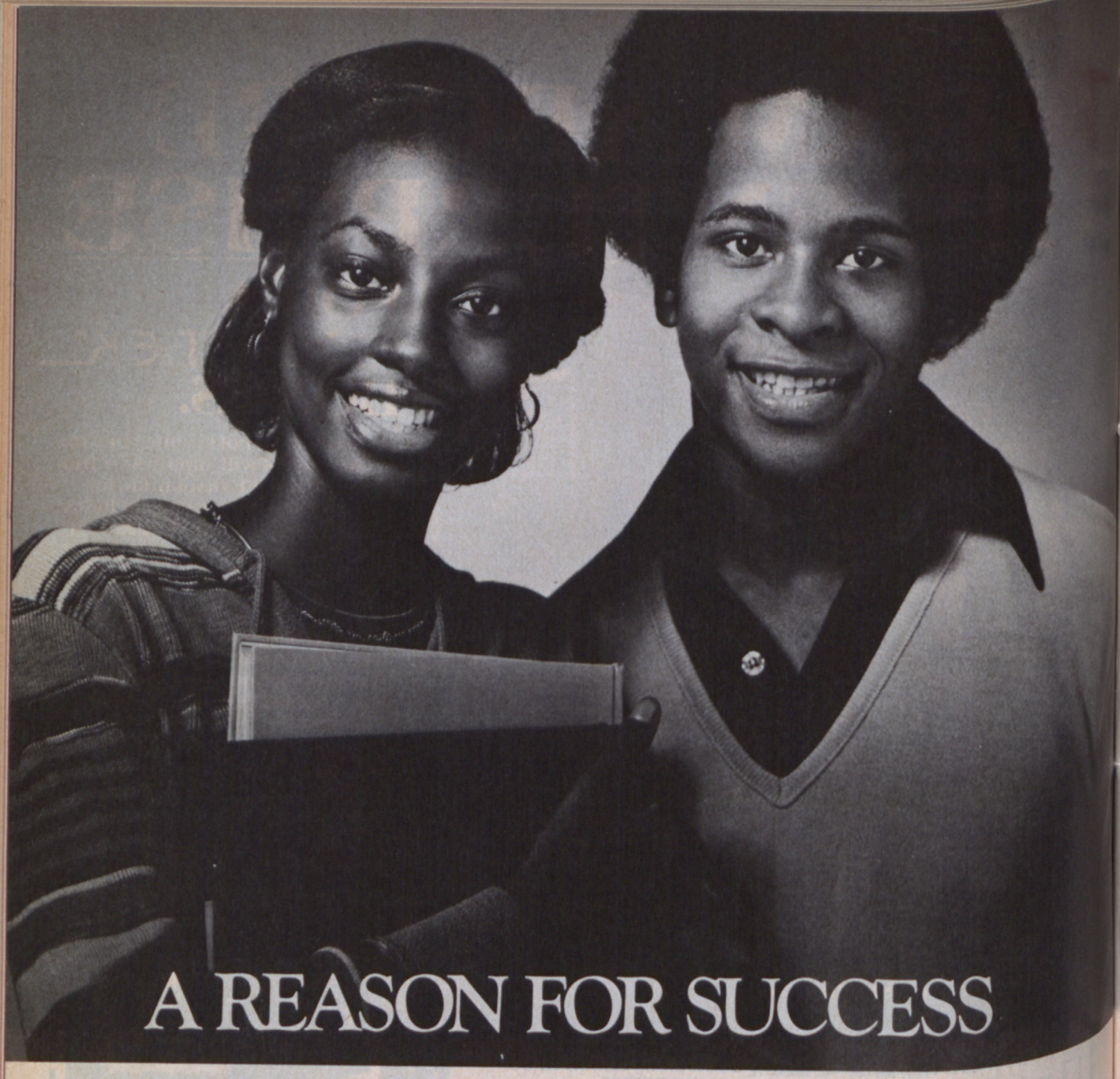

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# TODAY'S EDUCATION

The Journal of the NATIONAL EDUCATION ASSOCIATION
February-March, 1980, Volume 69, Number 1

SOCIAL STUDIES EDITION

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# In This Issue

Welcome to the first three-edition issue of *Today's Education*. There is a General Edition, an Elementary Edition, and a Social Studies Edition. Each edition carries basically the same editorial matter in the front and the back; the center section is different.

The flag-and-apple cover design on all editions symbolizes teacher involvement in politics, which is the topic of the lead feature. Starting on page 26, this feature appears in each edition.

Titled "Politics 1980," the feature takes off with an editorial by NEA President Willard McGuire on the importance of teacher participation in the political process in order to ensure better schools and better working conditions for teachers. Several articles in the feature tell about the work of the NEA Political Action Committee and the Presidential endorsement process, teachers' involvement in the Presidential primaries, and how local and state teacher groups are working in the political arena.

If you received the General Edition, you will find in the center section an assortment of articles of general interest to teachers at various levels and in various subject matter fields. For example:

- The secret of good teaching by famous anthropologist Ashley Montagu.
- What teachers can do if their schools are closed down.
- A new program for first graders.
- Problems of teenagers who work after school.
- How teachers are learning to cope with mainstreaming.
- Giving the forgotten average students a break.
- Growing older gracefully in the classroom.
- Ways to teach children how to write poetry.
- Legislative action to bring about truth in testing.
- How a classroom teacher overcomes her personal problems.

If you received the Elementary Edition, you will find seven articles in the center section instead of those in the General Edition mentioned above. By the printer's sleight of hand, he has replaced the general articles with articles of special interest to elementary teachers. This in-depth pedagogical feature has as its theme "Learning from and with Children."

The elementary feature was planned by Monroe D. Cohen, former director of publications for the Association for Childhood Education International and editor of its journal, *Childhood Education*. In his introduction to the feature, he outlines the articles and points out that they call for a "return to first principles, to observe carefully and thoughtfully the children in our classrooms so that we can learn from them and with them."

Dr. Cohen also comments in his introduction that the slogan "proud to teach" (originated by former NEA President Lester Buford) is an appropriate subtitle for the feature's keynote statement by Eda J. LeShan. Her recollections of her own "paths toward understanding and appreciating the early years of growing and living" provide a philosophical framework for the rest of the feature.

If you received the Social Studies Edition, you will find six articles in the center section substituted for those in the General Edition and the Elementary Edition. The theme for these articles is "Freedom of the Press."

Merrill Hartshorn, executive secretary emeritus of the National Council for the Social Studies, served as guest editor for this feature. His articles are grouped into three parts, as he explains in his introduction to the Social Studies section: (1) substantive material for teaching about freedom of the press, (2) classroom teaching strategies, and (3) resources for teacher and classroom use.

The articles in this section, including an interview with Walter Cronkite, are designed to inform and help social studies teachers teach this important topic. Mr. Hartshorn states in his introduction that "the free press has the responsibility to ensure the public's right to know and to guard against secret government; our schools have a responsibility to prepare a citizenry able to understand the issues involved in the maintenance of that freedom."

Also changed from edition to edition are some of our "Continuing Features," "Classroom Tips," "NEA Publications," "Free or Inexpensive," and, of course, the contents page are somewhat different in the various editions.

For example, "Free or Inexpensive" items in the Elementary Edition are of special interest to elementary teachers; in the Social Studies Edition, to that group of teachers. The General Edition contains an assortment of items—some for teachers at every level. "Classroom Tips" in the Elementary Edition is concerned with good teaching techniques especially usable at the elementary level. Similarly, the General Edition contains an assortment of tips for teachers at every level.

Maybe we goofed in sending you the edition you have in your hands right now. Our decision was based on our records and on postcards returned from our September-October 1979 overcover. At any rate, maybe you'd like to receive a different edition in the future. If so, check the postcard facing page one in this issue and mail it to us soon. We can't send you other editions of *this* issue, but we can change your record for fall issues.

Eventually we hope to publish many other editions aimed at meeting the specialized interests and needs of our members. As these editions are developed, you will again be given a chance to tell us which edition you'd like to receive.

Soon a national readership study will gather from a sample of NEA members their reactions to and suggestions about specialized editions. Whether or not you are included in that sample, we hope you will write us and share your reactions and suggestions on this plan to meet more specifically the specialized interests and needs of our readers. We'll look forward to hearing from you.

—WAG.

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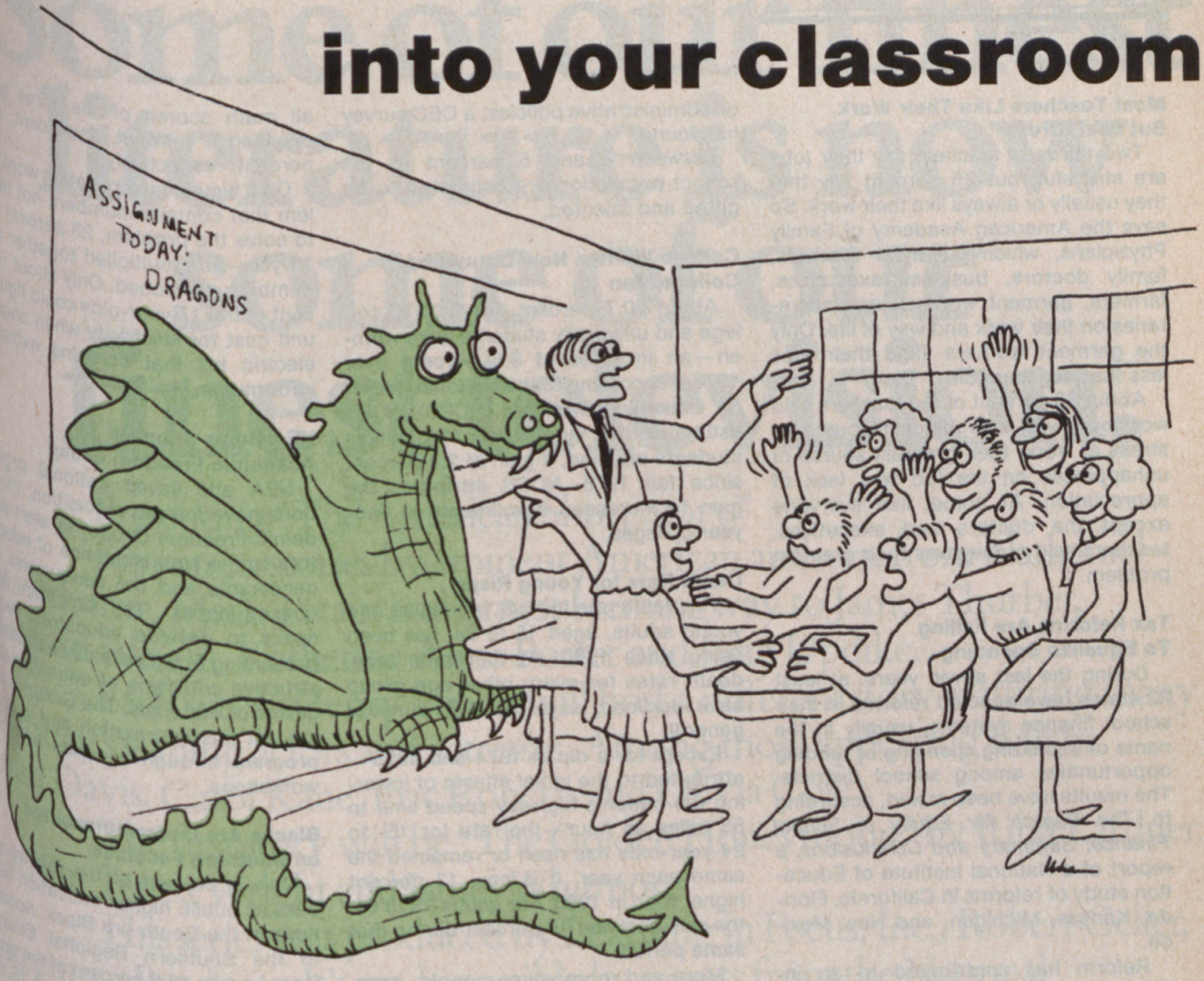


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# Trends

**Most Teachers Like Their Work, But Feel Stress**

Two-thirds of teachers say their jobs are stressful, but 86 percent say that they usually or always like their work. So says the American Academy of Family Physicians, which surveyed teachers, family doctors, business executives, farmers, garment workers, and secretaries on their work and way of life. Only the garment workers liked their jobs less than teachers did.

About 38 percent of the teachers said workload was their biggest source of stress at work; their greatest source of unhappiness on the job was lack of appreciation. At home, like everyone except the doctors and executives, teachers said money was their greatest problem.

**Tax Reforms Are Failing To Equalize Spending**

During the last seven years, at least 22 states have enacted reforms in their school finance systems, usually in the name of equalizing spending or funding opportunities among school districts. The results have been mixed, according to *The Search for Equity in School Finance: Summary and Conclusions,* a report of a National Institute of Education study of reforms in California, Florida, Kansas, Michigan, and New Mexico.

Reform has contributed to an increase in statewide total spending for education and a reduction in local property tax rates for education. Tax rates in the different school districts are much more nearly equal than before. Progress toward equal distribution of revenues and of instructional expenditures per pupil has been small or nonexistent, however.

Overall, the outcomes have been mixed, and the reforms fall short of alleviating the conditions calling for reform.

**Gifted and Talented Students Get More Attention**

Seven years ago, only 1 out of 25 of the U.S. students considered gifted or talented were served by special programs, but by 1978, more than 1 out of 5 were, according to the Council for Exceptional Children (CEC). At least 34 states now encourage special programs for this group through either legislation or administrative policies, a CEC survey has found.

Between 3 and 5 percent of the school population are estimated to be gifted and talented.

**College Women Now Outnumber College Men**

About 50.7 percent of fall 1979 college and university students were women—an increase of 3.8 percent over 1978—according to the National Center for Education Statistics (NCES). NCES estimates that altogether 11.7 million students enrolled, a gain of 2.4 percent since fall 1978. NCES attributes the gain to increased enrollments in two-year colleges.

**Death Rate for Young Rises**

The death rate for U.S. teenagers and young adults, aged 15 to 24, has been rising since 1960. At the same time, death rates for every other age group have declined, says the U.S. surgeon general.

Except for a dip in 1974 and 1975—attributed to the initial effects of lowering the nation's highway speed limit to 55 miles an hour—the rate for 15- to 24-year-olds has risen or remained the same each year. It is now 13 percent higher than in 1960. For adults 25 to 64, the rate declined 16 percent during that same period.

More and more young people, especially men, are dying in auto accidents and by murder and suicide. Experts blame drinking and unemployment, among other factors. According to a Johns Hopkins University sociologist, unemployment, by increasing frustration, increases the likelihood of homicide, suicide, and accidents.

**U.S. Students Have Trouble with Math Problem Solving, Study Shows**

Although U.S. students generally can handle the mechanics of mathematics, many of them have trouble applying these basic skills to everyday problems, according to the National Assessment of Educational Progress (NAEP). The NAEP's 1978 survey of mathematics achievement of 9-, 13-, and 17-year-olds showed that many students also don't understand such concepts as fractions, decimals, and percentage. Since 1973, the first year NAEP surveyed mathematics achievement, overall math scores of the three groups declined 1 percent, 2 percent, and 1 percent, respectively.

On a simple multiplication word problem that contains numbers not needed to solve the problem, 23 percent of the 13-year-olds multiplied together all the numbers mentioned. Only about 10 percent of the 17-year-olds could figure the unit cost for electricity when shown an electric bill that contains extraneous information.

**NEA Helps Sponsor Academic Freedom Group**

NEA and seven national organizations have formed a coalition, the Academic Freedom Group, to alert educators to the high incidence of educational censorship and the seriousness of its consequences. The coalition further seeks to develop educators' skills in preventing or successfully opposing destructive criticisms of educational programs or materials. The Group is carrying out this information and education program through a series of regional workshops.

**Blacks Are Underrepresented on Southern Faculties**

Only 8 percent of the faculty members at public higher education institutions in the South are Black, according to the Southern Regional Education Board, while 18.8 percent of the population in the South is Black and 15.1 percent of college students in the South are Black.

Blacks make up 67.7 percent of the faculty in predominantly Black institutions and 3.0 percent of the faculty at institutions where Blacks are 5 to 80 percent of the enrollment. Black faculty members are also less likely than White faculty members to hold tenure or the rank of full professor or to have earned a doctorate.

A report on the subject is available from the Southern Regional Education Board, 130 Sixth St., N.W., Atlanta, GA 30313.

**Most College Graduates Are Satisfied with Their Jobs**

Underemployment may be less of a problem for college graduates than many people think, according to the findings of a survey published by the

(continued on page 10)

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This series was produced by Learning in Focus, Inc., Robert Geller, Executive Producer. It's made possible by grants from the National Endowment for the Humanities, the Corporation for Public Broadcasting and Xerox Corporation.

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# Will there ever be another TV series as worthwhile as Sesame Street?

Yes, thank goodness. It starts Monday, January 14.

Joan Ganz Cooney and her Children's Television Workshop saw a way 10 years ago to teach kids, using the medium kids love best. The happy result was *Sesame Street*.

Does anyone have to be told *Sesame Street* went on to become one of the most successful TV shows ever?

Now Joan Cooney and the Workshop are ready with a new series every bit as significant as *Sesame Street*. It's called *3-2-1 Contact*. It will be on PBS stations Mondays through Fridays.

*3-2-1 Contact* is about science. If you just said *ugh*, maybe it's because you grew up without a show like this, which is a pity. And a national problem.

Thousands of bright and inquisitive youngsters start their school years with a natural interest in the sciences. But they get turned off before they ever reach junior high school. Thousands of scientists and engineers are lost to America in the process. *3-2-1 Contact* will keep curiosity alive in 8-to 12-year olds by bringing the same excitement to science and technology that *Sesame Street* brought to the child's first recognition of letters and numbers.

The National Science Foundation, The U.S. Department of Education, and the Corporation for Public Broadcasting all contributed sizable sums to help put *3-2-1 Contact* on the air.

So did we.

Our motives are simple. We invest more than a million-and-a-half dollars a day in scientific research and development to keep our Otis elevators, Pratt & Whitney Aircraft jet engines, Carrier air conditioners, Sikorsky helicopters and other high-technology products the best in their fields—and to create new and still better products. The United Technologies $2 million grant for this show is part of our investment in the future. We're pleased to make it.

And we're happy to invite you and your 8-to 12-year old friends to watch *3-2-1 Contact*. See your local TV listings for the broadcast schedule.

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# ONE OF THE BEST WAYS TO GET THROUGH COLLEGE IS TO GET THROUGH THE ARMY FIRST.

Last fall, more than 1.9 million students entered college. Of that number, close to 500,000 will leave before June.*

Many students just aren't ready for college, either emotionally or financially. That's why it's important to consider the benefits of an Army enlistment when you're helping seniors consider their options.

To ease the financial burden of college, the Army will help soldiers accumulate up to $8100 for their education. Under the Veterans' Educational Assistance Program (VEAP, for short), soldiers can contribute between $50 and $75 of their pay each month. The government then matches $2.00 for every $1.00 contributed by the soldier. At the end of 3 years, if they save the maximum amount, it adds up to an educational nest egg of $8100. That's not a bad way to start college.

Besides helping soldiers save for college, the Army can also help them attend college in their off-duty time. Through Army tuition assistance, the government will pay up to 75% for Army-approved courses.

Being a soldier can give a young person certain intangibles that are more valuable than dollars and cents. Experience. Maturity. And a clearer idea of what he or she wants. It could mean the difference between just attending college or finishing it.

If you'd like more information about the educational benefits and opportunities available in today's Army, call your local Army Representative (in the Yellow Pages under "Recruiting") or call toll free: 800-431-1234. (In NY, 800-942-1990.)

## TODAY'S ARMY IS AN EDUCATION, TOO.

*Figures based on 1978 estimates from the National Center for Educational Statistics, U.S. Dept. of Health, Education and Welfare.

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# Trends
(continued)

College Placement Council (CPC). More than four-fifths of the graduates of the 1970's who responded to the survey said they were either "very" or "somewhat" satisfied with their jobs. One-third said they were underemployed and would like a more challenging position.

The majors that graduates had found most likely to provide preparation for jobs were business, engineering, and education. The study found that college prepares graduates for their first job after graduation more than for jobs they move into later on.

The report, *College Education and Employment—The Recent Graduates,* is available for $9.95 from the CPC Foundation, P.O. Box 2263, Bethlehem, PA 18001.

### NEA Takes Part in Citizen/Labor Energy Coalition

NEA is one of more than 200 organizations involved in the Citizen/Labor Energy Coalition (CLEC) campaign to educate and mobilize citizens on energy issues. CLEC is promoting a comprehensive national energy policy that protects the interests and rights of the consumers, especially working people, the elderly, and the poor.

The Coalition's proposed legislative program includes reimposition of price controls on crude oil, heating oil, and natural gas; appointment of a special prosecutor to investigate shortages; legislation to ensure that refineries run at full capacity; and establishment of a taxpayer-owned energy corporation to compete directly with the oil companies.

For more information about CLEC, write to the Coalition at 600 Fullerton St., Chicago 60614.

### Working Women Face Obstacles

The gap between men's and women's earnings did not change from 1967 to 1978, according to the *Monthly Labor Review* of the Bureau of Labor Statistics. The median earnings of all women remained about 60 percent of those of all men.

In May 1978, 37 percent of all full-time workers and 67 percent of persons earning less than $125 a week were women. Five percent of the first category and 10 percent of the second were Black women; 2 percent and 5 percent, respectively, were Hispanic women.

Eighty percent of U.S. working women—those in low-paying, low-status jobs—face serious obstacles in getting the education they need, according to *Working Women Speak: Education, Training, Counseling Needs,* issued by the National Advisory Council on Women's Education Programs. The main problems the women cite are lack of money and time, child-care responsibilities, sex discrimination, limited types of training, and personal insecurity.

### Textbooks Still Largely Ignore Women

A 1978 update of a 1974 survey shows that U.S. high school history textbooks have improved their treatment of women, but not much, according to the Feminist Press. The books improved most in eliminating sexist language and in including women in illustrations.

The texts, however, the Press points out, continue to be organized around political and military events, so that "the history of all oppressed groups—not only that of women—is underrepresented. The objective has been to include these groups within 'the mainstream of history,' rather than to raise questions about what 'the mainstream of history' is."

To obtain a reprint of the article in which these findings appear and an annotated guide to current high school U.S. history texts, send a business-sized, self-addressed, stamped envelope to the Feminist Press, Box 334, Old Westbury, NY 11568.

### Arts-in-Education Group Seeks Advocates

The Arts, Education, and Americans, Inc. (AEA) has launched a major advocacy program to help secure for the arts a greater role in U.S. education. The program includes a public awareness campaign and a free consumer information service.

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To subscribe to the free AEA National Advocacy Program for Arts-in-Education, write to The Arts, Education, and Americans, Inc., Box 5297, Grand Central Station, New York 10017.

### NEA Reports on Salaries in Higher Education

In 1977-78 the median nine-month faculty salary in public four-year colleges was $17,818, according to NEA figures. At public universities with enrollments of more than 10,000, it was $19,560. The highest median salary was $20,090, for faculty at nonpublic universities with enrollments of more than 5,000.

Women comprised 22.5 percent of the faculty on nine-month contracts at all four-year institutions and 24.5 percent at public four-year colleges. The median salary was 85.4 percent of the median salary of all faculty.

The report, *Quartiles of Faculty Salaries Paid in Higher Education, 1977-78,* is available for $1.35 (to NEA members, Stock No. 1669-6-00) and $3 (to nonmembers, Stock No. 1669-6-10) from the NEA Distribution Center, the Academic Bldg., Saw Mill Rd., West Haven, CT 06516.

### Federal Government Describes Legitimate Affirmative Action

Last fall, the U.S. Office for Civil Rights (OCR) gave colleges and universities some suggestions for increasing their enrollment of minority students.

OCR says that voluntary affirmative action may include, but is not limited to, the following:

- Considering race, color, or national origin as a positive and important factor in selecting students.
- Increasing recruiting in predominantly minority institutions and communities.
- Using alternative admissions criteria when traditional criteria are not predictive of success for minority students.
- Providing special services to help disadvantaged students meet admissions requirements.
- Establishing numerical goals to achieve the desired composition of the student body.

### Students' Costs Rise 5 Percent at Public Universities

Median total charges for tuition, fees, room, and board for students at major U.S. public universities for 1979-80 were 5 percent higher than in 1978-79, according to a report of the National Association of State Universities and Land-Grant Colleges (NASULGC). The increase in the Consumer Price Index from July 1, 1978, to July 1, 1979, was 9.3 percent.

This year's median total charges for a state resident are $2,333; they are $3,667 for a student from out-of-state.

The report, *1979-80 Student Charges at State and Land-Grant Universities,* is available free from the Office of Communication Services, NASULGC, One Dupont Circle, N.W., Suite 710, Washington, DC 20036.

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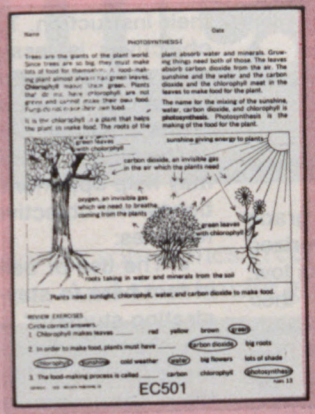
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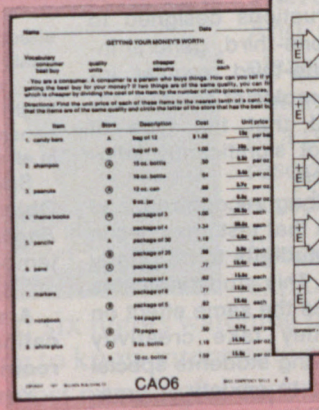
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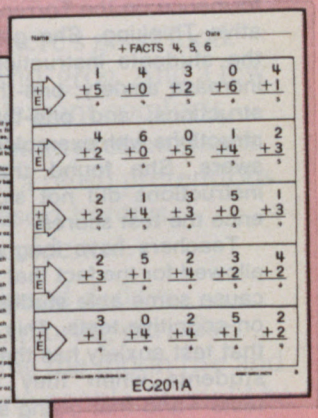
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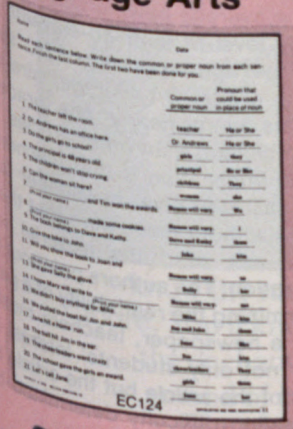
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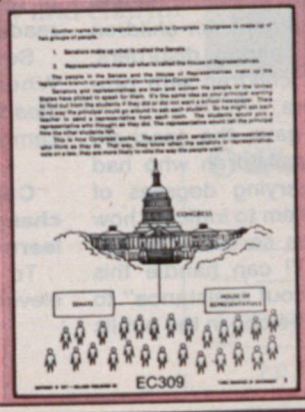
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# Research Clues

By JOHN H. HOLLIFIELD
*Assistant Director, Center for Social Organization of Schools, Johns Hopkins University, Baltimore.*

**Does test anxiety affect students' scores on tests of creativity?**

It did in this study of 72 sixth grade students. The researcher categorized the anxiety level of the students as low, medium, or high according to their scores on the Sarason Test Anxiety Questionnaire for Children. She then gave all three groups the Torrence Test for Creative Thinking. The high-anxiety students scored significantly lower on the test than the others did.

The researcher also looked for effects of different types of instructions on performance on the Torrence Test for Creative Thinking. She gave one-third of the students instructions designed to increase anxiety; one-third, general instructions; and one-third, regular instructions with examples of creative answers. She found that the type of instructions did not significantly influence the test scores.

Teachers have long recognized and allowed for the fact that test anxiety can cause some able students to do poorly on cognitive tests. This study indicates that test anxiety has the same effect on students when they take creativity tests—and that giving students special instructions related to anxiety or creativity of the kind this researcher tried does not affect scores on creativity tests.

See Landa L. Trentham. "Anxiety and Instruction Effects on Sixth-Grade Students in a Testing Situation." *Psychology in the Schools* 16: 439-43; No. 3, 1979.

**Should English teachers use behavioral objectives?**

Yes, says this author in a review of the struggle between opponents and proponents of the use of behavioral objectives to measure performance in English.

The argument for objectives is, essentially, that teachers can describe and therefore measure much of what is taught in English classes in terms of students' observable uses of English. Behavioral objectives therefore help English teachers maintain quality of instruction and measure the results of their instruction. The argument against objectives is, essentially, that the results of teaching English (e.g., appreciation of literature) cannot be measured in terms of simple behavioral objectives.

The author makes three points which may help opponents and proponents of behavioral objectives reconcile their differences:

- The use of behavioral objectives is in fact here to stay as a way of demonstrating students' achievement.
- Some educators are proposing more flexible definitions of behavior so they can measure progress toward large goals as well as toward detailed objectives.
- Many educators are recognizing that although the use of behavioral objectives is helpful, it is not a panacea.

The author concludes thus:

> . . . if we accept the premise that to be effective, teachers ought to know what their goals are and when they have been achieved . . . then formulating behavioral objectives ought to be a reasonable, and perhaps indispensable, starting point for good instruction in all courses, including English.

See Marna Brockhoff. "Behavioral Objectives and the English Profession." *English Journal* 68: 55-59; No. 6, September 1979.

**Are teachers willing to provide educational opportunities in their classrooms for handicapped children?**

Yes, according to this study of 34 elementary school and 33 secondary school teachers. Almost all the teachers were willing to provide educational programs in their classrooms for children with borderline and mild handicaps. More than half were willing to provide programs for children who were moderately to severely handicapped. In addition, 9 percent were willing to provide programs for children who were profoundly orthopedically handicapped; 30 percent, for those with profound behavioral disorders; 50 percent, for children who had profound hearing disorders; and 27 percent, for children with profound visual disorders.

The researchers gave the teachers vignettes describing children who had the handicaps in varying degrees of severity and asked them to indicate how each child should be served. The options ranged from "I can handle this child in my class without assistance" to "This child does not belong in the public school," with four options in between.

Generally speaking, teachers were highly willing to integrate the handi- capped into their classrooms; their willingness to accept children with different kinds of handicaps varied greatly, however. Only 12 percent were willing to set up classroom programs for children with moderate mental retardation, but 92 percent were willing to provide programs for children with moderate behavioral disorders. No teacher wanted to provide programs for children who were severely mentally retarded.

The authors feel that teachers view working with children with intellectual handicaps as far more difficult than working with children with behavioral problems or sensory or other physical handicaps. The authors stress, however, that their most important finding is that teachers are in general willing to participate in integrating most handi- capped children into regular class- rooms.

See Alfred Hirshoren and Thomas Burton. "Willingness of Regular Teachers To Participate in Mainstreaming of Handicapped Children." *Journal of Research and Development in Education* 12: 93-100; No. 12, Summer 1979.

**Are newspapers easy reading?**

Not as easy as most people assume, according to this study. The authors applied the Fry and the Dale-Chall readability formulas to 40 newspaper articles, 20 dealing with international and national news and 20 with sports.

The average news article had a reading ability level of tenth-to-eleventh grade; the average sports article, sixth-to-eighth grade. On average, wire-service articles were nearly one grade level more difficult than other articles.

The implication is that teachers cannot casually give newspaper assignments without being sure that their students can read the material without frustration. The authors point out that in determining the readability of a passage from a newspaper, teachers must consider not only students' interest in the topic of the article but the article's level of reading difficulty determined by the readability formulas.

See Jerry L. Johns and Thomas E. Wheat. "Newspaper Readability." *Reading World* 18: 141-47; No. 2, December 1978.

**Can classroom meetings help change the inappropriate behavior of learning disabled children?**

To improve the behavior of the 10 eleven- and twelve-year-old learning dis-

(continued on page 16)

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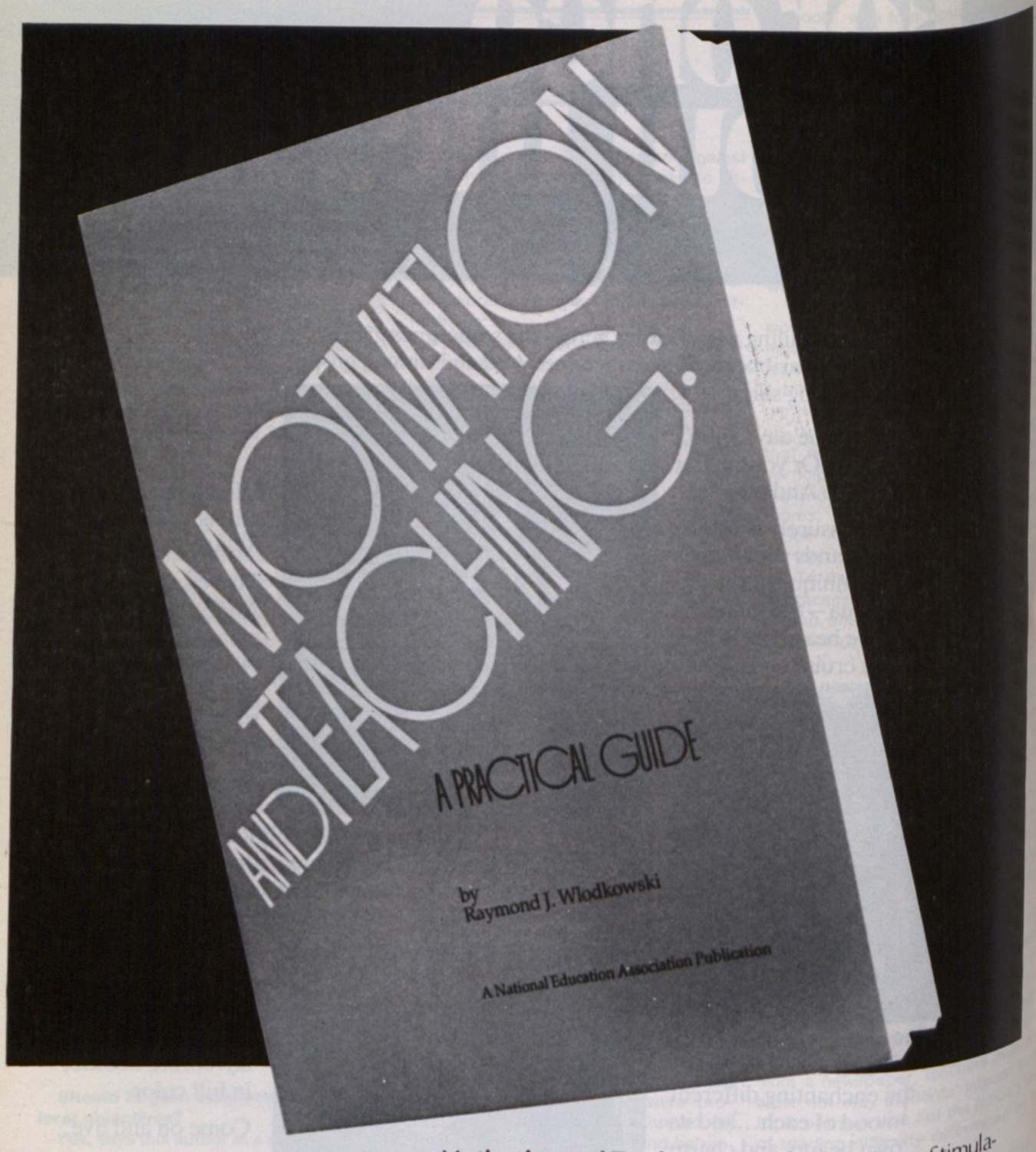


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# Research Clues

(continued)

abled boys in her class, a teacher tried out two types of classroom meetings described by William Glasser in *Schools Without Failure*. Every day for eight days, the teacher held two types of classroom meetings: open-ended meetings in which the class discussed thought-provoking questions on general topics and meetings in which the students discussed their specific social behavior in school. The rate of verbal arguments between two classmates decreased from 3.79 per day to .25 per day; that of verbal arguments involving more than two classmates, from 1.21 to .38 per day; and that of physical confrontations, from .38 to .13 per day.

The authors note several factors that limit the validity of their findings.

- The teacher they studied had already spent two years with the students and had strong rapport with them.
- The students were used to having discussions about solving problems.
- The teacher—rather than an impartial observer—recorded the data on the number of verbal arguments and physical confrontations.

Nonetheless, teachers may want to look at Glasser's classroom meeting techniques as possible ways to reduce disruptiveness in the classroom.

See Paula Marandola and Steve C. Imber. "Glasser's Classroom Meeting: A Humanistic Approach to Behavior Change with Preadolescent Inner-City Learning Disabled Children." *Journal of Learning Disabilities* 12: 383-87; No. 6, 1979.

**Can the location of a testing session affect students' test performance?**

Yes, according to a study which found that students' scores on tests were significantly lower when they were moved out of their regular classrooms to take the tests. The researchers examined the scores on six weekly quizzes of 50 students in two college geography sections.

On one occasion each section took the quiz in a classroom other than their regular one. The students' scores dropped significantly. Interestingly, the scores of students who had previously been performing the best suffered the most—their error rates went up more than did the rates of the students with lower average scores.

The authors believe the study produced these results because students use cues available in the classroom where they have learned material to answer test questions on that material. Switching the environment removes the cues and leads to poorer performance. The switch has the greatest effect on the better students, who probably had been making better use of the cues than the poorer students had.

The main implication for teachers, according to the authors, is that they should be aware that the setting for a test makes a difference in test scores. Therefore, teachers should try to standardize conditions in which their students take tests. Although this study involves college students, the point deserves the consideration of elementary and secondary school teachers.

See Richard L. Metzger, Pamela F. Boschee, Terry Haugen, and Barbara L. Schnobrich. "The Classroom as Learning Context: Changing Rooms Affects Performance." *Journal of Educational Psychology* 71: 440-42; No. 4, 1979.

**How can schools improve students' self-concepts?**

This article identifies seven strategies that have been devised to improve students' self-concepts, reviews the research literature about each, and identifies the ones that seem to work. The seven strategies are these:

- Direct encouragement—provision of information that improves a student's self-concept directly (e.g., saying "That's really good" or giving the student a report of his or her high score on a test).
- Affective programs—programs that involve the students in the process of changing themselves (e.g., counseling, sensitivity training).
- Racial study programs—courses that show the accomplishments of members of minority groups.
- Parent education programs—programs that educate parents to change their behavior in order to improve their children's self-concepts.
- Tutorial programs—programs in which low-achieving older students tutor younger students.
- Selected types of organization—learning environments that are conducive to improving students' self-concepts (e.g., open classrooms, team teaching).
- Opportunities to become competent—experiences that provide success (e.g., in an academic skill or in completing a course).

The authors conclude that the research shows that affective programs, racial study programs, tutorial programs, and opportunities to become competent are effective in improving students' self-concepts. Direct encouragement is not effective, and the jury is still out on types of organization and on parent education programs.

The authors' review of the research is skimpy, and their most recent citation is 1971. Therefore, their conclusions are suspect.

Despite the flaws in this study, however, it is important because of what it attempts to do: identify an educational problem (the need for improving students' self-concepts), organize the strategies available to deal with the problem, and bring research evidence to bear on the strategies. This type of synthesis of education research needs to be done more often to give schools and teachers a coherent picture of which educational strategies may be effective for which purposes. It must be done well to avoid premature conclusions, however.

See Harvey Leviton and John Kinaly, Jr. "Intervention Strategies for Promoting Self-Concept." *Academic Therapy* 14: 535-46; No. 5, May 1979.

**When teachers think students have severe school problems, are the students and their parents likely to agree with them?**

Not at all, according to this study of 180 students, ages six to 18, who were referred by school staff for clinical assessment and consultation because of school problems.

The students, their parents, and their teachers filled out separate questionnaires that listed seven aspects of the students' schoolwork, attitudes, and behavior. On each item, they rated the students on a six-point scale, from very poor to excellent.

The students' ratings of themselves were consistently more positive than those of their teachers. In Effort in School, for example, only 16 percent of the students rated themselves poor or very poor; 35 percent of the parents rated their children poor or very poor; and the teachers rated 67 percent of the students poor or very poor.

These results imply that teachers should be aware of the communication gap they may face when trying to help a student who's not doing well, especially when they seek parental help. As the first step, both students and parents may need to be convinced that a severe problem really exists.

See Howard Adelman, Linda Taylor, Williamson Fuller, and Perry Nelson. "Discrepancies Among Student, Parent, and Teacher Ratings of the Severity of a Student's Problems." *American Educational Research Journal* 16: 39-41; No. 1, Winter 1979. ☐

# Letters

*Ideas and opinions in this feature are those of the writers and not necessarily of the NEA. "Letters" is primarily a forum for NEA members. If you are currently a member, please paste the mailing label from a recent copy of* Today's Education *at the top of your letter. Also indicate your school, position, and home address.*

**Teacher Burnout**

Articles such as those in your special feature on teacher burnout (November-December) are comforting because they help a teacher like me realize that I am not the only one who is frustrated and discouraged. This burnout phenomenon totally drains me of my emotional and physical reserves.

Teachers now have to deal with physically, emotionally, and mentally handicapped students in their classrooms. A conscientious teacher wants to see these students succeed. This responsibility can be very emotionally taxing indeed.

—Joan Mary Macey, *art teacher, Benjamin Franklin Elementary School, Binghamton, New York.*

I enjoyed Dorothy Moe's prescription for teacher burnout.

Five years ago I took a sabbatical leave for travel because I needed to renew myself. I purchased Greyhound's Ameripasses and traveled through Indiana, Missouri, Colorado, Texas, New Mexico, Oklahoma, Illinois, Tennessee, and Florida. It was great! I returned to teaching with new vigor.

—Mary C. Bradley, *fourth grade teacher, Gaskill School, Jeannette, Pennsylvania.*

"A Prescription" by Dorothy Moe in the feature on burnout gives the most irresponsible and inappropriate response imaginable to how teachers can prevent burnout. Our educational system is collapsing largely because of the social attitudes Ms. Moe advocates—get into yourself, do what you want to do, avoid your "erroneous zones."

The only way we are going to repair the system is to become more involved and to take on more responsibility—not individually to the point where we burn out, but collectively, together with our colleagues. Teachers are going to have to use their unions and professional organizations to deal with the incredible problems presented by a society that has increasingly less to offer young people and that views education as an unnecessary luxury.

The last thing we need is teachers who have decided to deal with the problem by forgetting about it.

—Michael Engel, *Department of Political Science, Westfield (Massachusetts) State College.*

The November-December editorial, "Teacher Burnout," leads one to believe that teaching suddenly has become a job that taxes a person's physical and mental abilities to the limit. I fail to see the justification for that statement.

In describing the causes of teacher burnout, NEA President Willard H. McGuire speaks of violence and vandalism, inadequate salaries, oversized classes, and insecurity and anxiety. But teachers have always had to contend with these conditions. In the thirties, for example, even though there was less violence and vandalism than there is today, teachers certainly experienced insecurity and anxiety and were paid inadequate salaries. Yet we heard nothing about teacher burnout in those depression years.

I am not advocating a return to the conditions of the thirties or to the forties, a decade which was not much better for teachers. I wonder, however, why teachers today who experience the same adverse conditions that teachers in the thirties and forties experienced feel burned out. Perhaps it is time to admit that some teachers bring burnout upon themselves.

—Herbert E. Steingass, *physics and chemistry teacher, West Geauga High School, Chesterland, Ohio.*

**Commitment to Education**

In "Leave Them Alone To Do Their Jobs" (November-December), Vice-President Mondale discusses the profound commitment of our society to educate all our children. He emphasizes that it will take two things to honor this commitment: teachers and money. I'd like to add a third necessary ingredient—parents and a general public who understand, cooperate with, and support the schools.

The teaching profession and its local, state, and national organizations must accept the major responsibility for developing the support of parents and the public for the schools. They can do this by expanding their contacts with parents, holding meetings with the public, and interpreting school programs and objectives and educational research for parents and the public. Such activity can, should, and will make a difference. More voices must speak out for education as the prime factor which strengthens our democracy, improves our economy, increases our national security, enriches our lives, and provides the greatest incentive for human justice and freedom for mankind.

—Corma A. Mowrey, *former NEA president, Leesburg, Florida.*

**Right-To-Life Rebuttal**

Right-to-lifers like James W. Van Wormer, whose letter to the editor appears in the November-December issue, should hardly be granted space in a national magazine of the stature of *Today's Education*. With their emotional appeals, they hope to convince teachers to teach children their biased viewpoint.

Mr. Van Wormer's personal ideas and opinions should remain personal. Printing them in *Today's Education* gives them a sanction I believe they hardly merit.

—Sally Schober, *media specialist, Caldwell/West Caldwell (New Jersey) Public Schools.*

**Teaching Writing**

I read with interest Frances Spielberg's statement in the symposium "How Some Teachers Teach Writing" (September-October) on using grammar to teach geometry. In my seventh grade English class, I use the language of math to teach grammar.

To teach the concept of a linking verb, for example, I explain that the linking verb performs the same function as an equal-sign in an equation. Just as what is on the left and right sides of an equal-sign must be equal in value, what comes before and after a linking verb in a sentence also must be equal.

Once I teach the concept of the linking verb, teaching the predicate nominative and predicate adjective is easier.

—Tina Mason, *English teacher, Five Points Junior High School, Fairborn, Ohio.*

**Teaching Is Loving**

Gloria Cosgrove Chantland coined the perfect motto for our teaching profession when she titled her article "Teaching Is Loving Something So Much that Your Students Learn To Love It Too" (September-October). Obviously, she experienced what teaching is all about.

—Claudia L. Dodson, *Charlottesville, Virginia.*

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# Teacher Opinion Poll

### Financing Education

Many teachers believed a movement to reduce or limit property taxes was likely to occur or was already under way in the community where they teach, according to the NEA Nationwide Teacher Opinion Poll that was completed in May 1979. One-sixth of respondents reported that a movement to reduce property taxes had already begun in their district, and another two-fifths felt such a movement was likely to occur.

Many more teachers in the West (42 percent) than in the Northeast (11 percent), Southeast (6 percent), or Midwest (10 percent) reported that such a movement had already begun. Teachers in the West were also far more likely to believe a movement of this kind would occur if it had not already done so.

Two-thirds felt the schools could get along with less money and still provide a good education for children. Sixty-seven percent felt that federal revenues for funding public elementary and secondary education should be increased, and 74 percent thought state revenues should be increased. At the same time, 64 percent felt that local revenues for education should be decreased.

If expenditures had to be reduced significantly because of loss of revenues, respondents would have preferred large cuts in extracurricular activities, building construction and remodeling, number of administrators, and number of subject matter specialists to reductions in teachers' salaries or numbers. They were far less likely to opt for cuts in special education, libraries, or health services.

If the school system budget were cut so much that either teachers' salaries or numbers of teachers had to be reduced, however, 84 percent of respondents felt their school system would reduce numbers of teachers. Seventy percent said that if faced with that hard choice, they preferred that kind of cut.

In a related question, only about one-third of respondents felt President Carter's wage/price freeze would help control inflation. Seventy percent felt it would benefit management more than labor.

—NEA Research.

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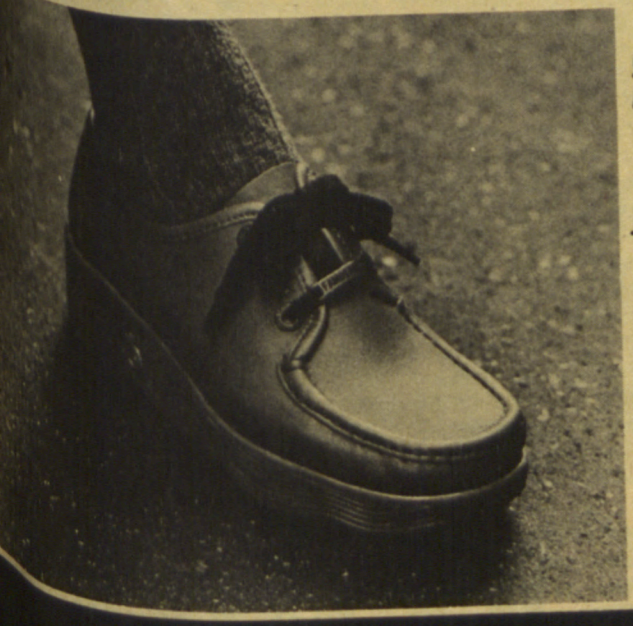

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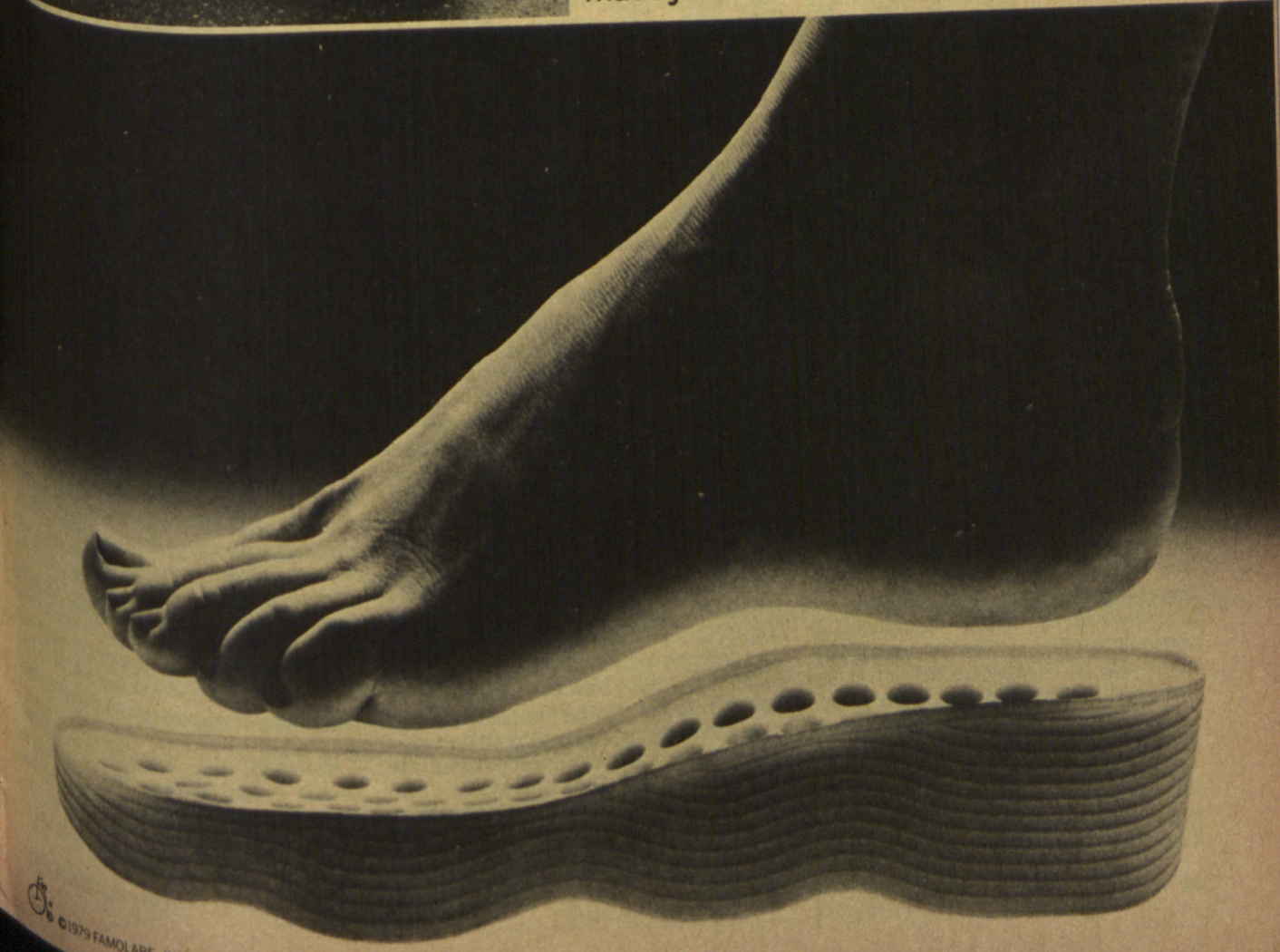

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CIRCLE QUICK-ACTION CARD NO. 45

# The Teacher and the Law

**Compulsory Retirement**

Age 65—long a milestone associated with tearful catered dinners, gold watches, and "mature" Sunbelt communities—has joined the ranks of the ordinary birthdays, thanks to a powerful piece of federal legislation: a 1978 amendment to the Age Discrimination in Employment Act (ADEA). Now most employees may not be mandatorily retired before the age of 70, because the amendment extends the age limit for coverage under ADEA from 65 to 70 and definitively bans compulsory retirement of those covered, even when they are members of a bona fide retirement plan.

Exceptions to the law affect some educators. Under an exemption in the statute, tenured faculty in higher education may be retired at age 65 until July 1, 1982. After that, they will receive the full ADEA protection guaranteed other workers. (Apparently faculty in this category were singled out in response to a perceived need to retire senior faculty in order to diminish the glut of unemployed Ph.D.'s roaming the country in search of work.)

In addition, for teachers and others working under collective bargaining agreements that were in effect in September 1977, coverage under the retirement provision was delayed until the contracts ended or until January 1980, whichever came earlier.

Teachers who are federal employees, on the other hand, no longer face mandatory retirement at any age. Congress, which sets no upper age limit on its own members, extended this same policy to federal employees.

Other categories of employees are also exempt from the new amendment's retirement provisions, but their ranks are not likely to include teachers. One such group is individuals employed in bona fide high executive or policy-making positions, who are entitled to a pension of at least $27,000 a year; they may be retired at age 65. Also, workers who are required by federal regulations or statutes to retire before the new retirement age of 70 may be retired at the designated ages if the age limitations "are clearly imposed for the safety and convenience of the public."

Along with the retirement provision, the law grants other significant protection to employees between the ages of 40 and 70. Employers may not discriminate against this group in hiring, firing, or paying salary or wages. Labor organizations, including NEA and its affiliates, and employment agencies also are prohibited from discriminating against these workers.

Employers may apply age limitations only where they are "necessary to the normal operations of the particular business," and the burden of demonstrating the need is on the employer, according to ADEA regulations. Physical fitness examinations and requirements are permitted only if they are applied uniformly and relate to the specific work required.

Differences in employee benefits are allowed when they are justified by demonstrable "actuarially significant cost considerations," but employers may not spend less on older workers than they do on younger ones. Such benefits as uninsured sick leave or vacation leave must be provided equally, but other benefits may reflect verifiable differences in costs. For example, higher expenses for such items as life insurance may result in smaller benefits for older workers or in greater employee contributions by older workers who are under a voluntary plan.

Employers may comply with the regulations on benefits either by demonstrating equity for each benefit provided or by providing an overall benefits package which complies with the requirements. Those who choose the latter method must be able to prove that they are spending no less on older workers than they would have under the benefit-by-benefit approach. On the other hand, the regulations also permit restrictions on an employee's participation in a contributory retirement plan after he or she reaches the plan's normal retirement age and continues to work.

Those who believe they have been the victims of ADEA violations should file a complaint with the Equal Employment Opportunity Commission (EEOC). They must do so within 180 days of a violation. They must also have filed a complaint with the agency in their state that has authority over age discrimination—if one exists—60 days before filing with EEOC. For individuals who file only with a state agency, however, there is no danger that the proceeding will eat up the entire EEOC time limit for filing; the law also gives complainants 30 days after termination of state proceedings to file a complaint with EEOC—regardless of when the alleged violation took place.

Parties may not privately file suit until 60 days after they have filed a charge with EEOC. The hope is that the agency may successfully conciliate the parties and prevent the need for litigation. Suits must be filed within two years of the alleged violation or within three years if willful violation is charged. Under the new amendment, an extra year may be added to both these times to allow the government to conciliate if EEOC indicates that it plans to try to conciliate the dispute.

Until July 1, 1979, ADEA was under the authority of the Department of Labor (DOL). At that time, as part of a civil rights reorganization, the authority for the statute was transferred to EEOC.

Francis V. LaRuffa, supervisor of EEOC's ADEA Unit, says the agency is analyzing all the Department of Labor's ADEA interpretations "with an eye toward issuing its own guidelines." In the interim, DOL's regulations will continue to be in effect.

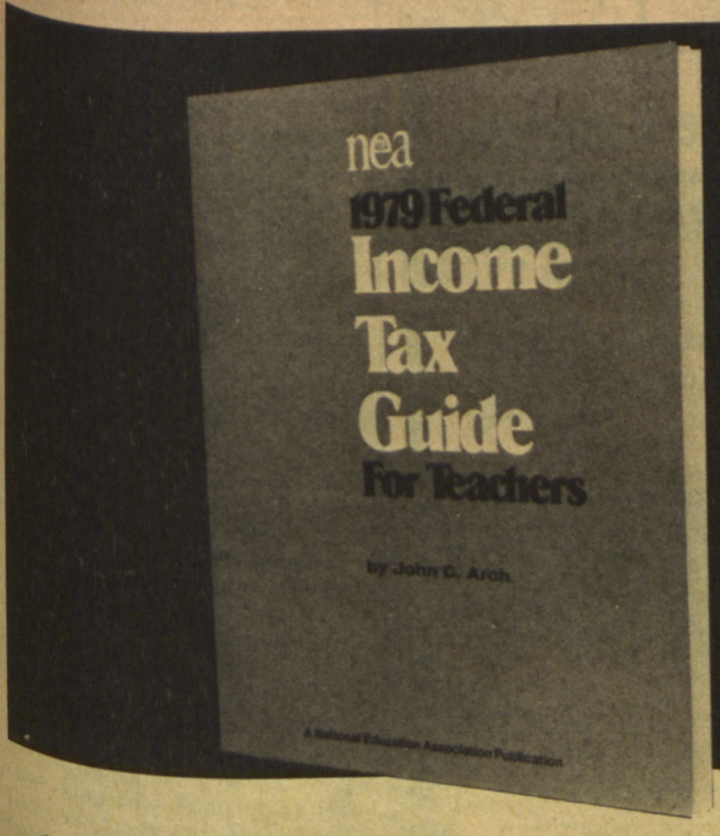
Traditionally, EEOC has favored large-scale, high profile investigations and lawsuits with wide-ranging effects rather than attempts to remedy individual complaints. The agency's record on ADEA has yet to develop, but shortly after its assumption of responsibility for ADEA, EEOC publicly announced that it was filing an age discrimination suit against the Leo Burnett Company, the nation's third largest advertising firm.

LaRuffa says the agency does not yet know which problems most complainants cite or in which areas of employment most complainants work. EEOC has no statistical breakdown of the number of ADEA complaints in the field of education, for example.

Some might think that the ADEA is unnecessary for public employees. They may assume that the Equal Protection Clause in the Fourteenth Amendment to the Constitution provides public employees with adequate security against age discrimination. The case law in this area, however, is neither definitive nor encouraging. Some federal courts have found equal protection violations when age discrimination is proven, but most have concluded that the age limitations in question were in the legitimate interest of the state, and thus constitutional.

Ironically, the Justices of the Supreme Court, whose average age is more than 66, have in their rulings not been supportive of victims of age

(continued on page 22)

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# The Teacher and the Law

Continued

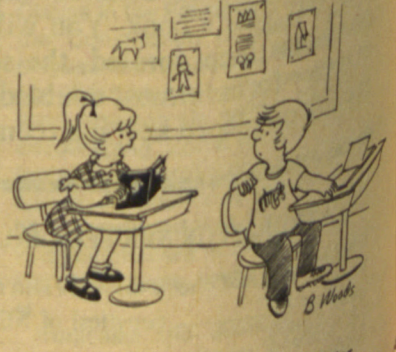
discrimination. In *Massachusetts Board of Retirement* v. *Murgia* (1976), for example, the Court rejected the argument that mandatory retirement of Massachusetts state policemen at age 50 violated the Equal Protection Clause. The Court found that the physical requirements of the job made the age limit "rationally related to the State's objective." In another decision, *Vance* v. *Bradley* (1978), the Supreme Court upheld mandatory retirement of Foreign Service personnel at age 60. The plaintiff had argued that the disparate treatment of Foreign Service employees relative to other federal workers was unconstitutional, but the Court concluded that the reasons stated for the policy met the legitimate state interest test.

The Court has not yet ruled on the constitutionality of compulsory retirement of teachers, though it had the opportunity to do so last year. Instead it let stand two decisions upholding mandatory retirement of teachers and one decision finding such a policy in violation of the Constitution.

The court decisions invalidating the mandatory retirement of teachers have found teaching to be an activity which is not impaired by age and which often may be improved by it.

ADEA calls upon the Secretary of Labor to conduct a study which, among other assignments, is to investigate the possibility of lifting the 70-year limitation and flatly banning all age discrimination. Perhaps some day retirement will represent a voluntary change in lifestyle, rather than mandatory banishment from the workplace.

**—Barbara Stein,** *NEA Teacher Rights.*



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# The Teacher as a Consumer

**Warranties and Guarantees**

If you buy a toaster that won't toast or a freezer that won't freeze, are you protected?

Yes. You can return either device to the seller and get satisfaction. It's your legal right.

All products have some kind of warranty or guarantee (the words mean the same thing). Warranties are meant to protect consumers against shoddy merchandise, whether sold to them by mistake or by intention.

For you, as a teacher, warranties are important in two ways. For you, as for others, they reduce the chance of expending part of an already stretched paycheck on bad merchandise. They also can assure you that the equipment you use in your classroom is reliable—or at least is intended to be.

The idea of a warranty is simple, but warranties themselves are not. The most common type is the unwritten *implied warranty,* which provides a minimum protection for buyers. All states have laws recognizing implied warranties for all products sold within their borders. An implied warranty exists whether or not it is accompanied or supplemented by another kind of warranty.

Implied warranties cover two different kinds of characteristics: *merchantability* and *fitness for a particular purpose.* Your rights in regard to the toaster and the freezer exemplify the implied warranty of merchantability. You have a right to expect a product to do what it is expressly sold to do.

On the other hand, your school may purchase a movie projector that seems to work well. After you use it a couple of times, however, you discover it is permanently scratching the films going through. At the time of purchase, the projector was obviously "merchantable," but later it proved that it was not "fit" for use. The buyer—you or your school—has the right to expect a product to be fit to do what the seller (or the salesclerk or advertisment that represents the seller) specifically claims the product can do.

The only way a manufacturer or a seller of an item can escape from the implied warranty is to state specifically in writing that the item is sold "as is"—that the seller will assume no legal responsibility for performance or repairs after the sale. Used cars and demonstration models of appliances are often sold "as is." Even so, the implied warranty laws of seven states (Kansas, Maine, Maryland, Massachusetts, Mississippi, Vermont, and West Virginia) place a heavy burden on the seller to prove why a consumer with a reasonable complaint should not be satisfied, *regardless* of what notice the seller may have given to the contrary.

On the other hand, a salesclerk or an advertisement may promise a lot of things to a customer, but promises that go beyond the specific warranties on the product (whether implied or written) may not help that customer when repairs are needed.

Although they are not legally required, *written warranties* are found on most products today. Manufacturers and sellers know that consumers look for some assurance of quality in the things they buy. Careful shoppers compare not only the prices and special features of different models of an item; they also compare the written warranties that accompany those models.

The federal Magnuson-Moss Warranty Act, which went into effect in 1975, requires written warranties to be published in straightforward English and easy-to-read type (not the old "fine print"). Even among these written warranties, however, there are differences between *full* and *limited.*

According to the federal law, if you buy a product with a *full* written warranty, you can expect a number of things:

- A defective product will be fixed or replaced—and removed and reinstalled if necessary—free.
- The product will be fixed within a reasonable time after you complain.
- You will not have to do anything unreasonable to get service (such as shipping a piano back to the factory).
- The terms of the warranty are in force no matter who owns the product during the warranty period, so gifts are protected. This is very important if, for example, a group (such as the PTA) buys some equipment for the school.
- If the product can't be fixed (or hasn't been fixed after a reasonable number of tries), you have a choice of getting your money back or getting a replacement.

Remember, however, that a full warranty doesn't have to cover the whole product. A TV set may have a full warranty on the picture tube—but no warranty on the sound system or the case. A new car may have a full warranty on everything but the tires.

A *limited* warranty on a prospective purchase requires close attention, because the limitations vary by product and manufacturer. Here are some examples:

- A defective product will be repaired during the warranty period, but only the cost of parts will be covered; you will have to pay the labor costs.
- If a product has to be returned, you will get a prorated (not a full) refund or credit; the longer you've had the product, the less money you'll get back from the seller.
- Only the original purchaser is covered; once given, a gift is no longer under warranty.
- You might have to ship that piano back to the factory after all.

To protect yourself when a product with a warranty fails you, keep your sales slip. It establishes the date of the sale and the fact that you were the purchaser. Time is important, since your warranty rights are in effect if you complain during the warranty period, no matter when the company responds.

If you can't get satisfaction from the seller or manufacturer, complain to your local or state consumer protection agency. If the amount of money involved is small, you may be able to take your case to small claims court. (A lawyer is not required; the clerk can help you out.)

If the product was manufactured after July 4, 1975, and carries a written warranty, you may be able to sue under the federal law. If you win, the court will award you money damages and reasonable legal costs.

When you make a purchase, you hope you won't have to use the warranty, but you should make sure you have a good one. It makes sense to shop warranties as well as to shop price.

**—Theodore O. Cron,** *coordinator of consumer education, Bureau of Consumer Protection, Federal Trade Commission; and former secondary school teacher.*

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# POLITICS 1980

## A Statement by NEA President Willard McGuire

About 20 years ago, the NEA Citizenship Committee—precursor of NEA's Political Action Committee (NEA-PAC)—suggested "Every Teacher a Politician" as a theme. At that time, before teachers began flexing their political muscles, this suggestion for a theme was rejected. "Teachers don't want to be thought of as politicians; they are just not interested," one NEA leader said.

That leader was wrong. Teachers are very interested in politics, and they make superb politicians.

Furthermore, teachers realize that politics is the mechanism for making decisions in our democracy. Everything that teachers want—for themselves and for the schools of America—is tied to politics. Want better funding for the schools? Elect politicians who will vote for it. Want teacher bargaining? Get on the stump for up-to-date politicians who believe in bargaining rights for public as well as private employees. Want improvements in federal school programs? Help place politicians in Washington who will support the changes teachers ask for.

A recent, dramatic example of teachers' working with politicians to improve education is the successful campaign for a Department of Education.

This battle to give education the place it deserves—at the side of the President of the United States—was a political battle. It was a battle fought by NEA teachers throughout the nation. It was a battle won by working with politicians; by lobbying on Capitol Hill and in districts around the country; by day-by-day, hour-by-hour politicking.

And let me assure you that teachers did a great job.

This year—1980—is as critical a political year as we teachers have ever faced. The issues to be decided, the candidates to be elected, from the President down to state legislators, will affect education and educators as never before.

Let me mention just a few of the decisions that American voters will make this year:

They will decide whether the Carter Administration, which has strongly supported public education, will be replaced.

They will decide whether the majority of the U.S. Congress will favor such proposals as broadened federal support for the public schools, collective bargaining for public employees, and national health insurance or whether the majority will favor more money for defense and less money for schools, more power for big business and less power for workers such as teachers.

In many states, the legislators elect-

*This feature on "Politics 1980" was prepared by the* NEA Reporter *staff, Marshall O. Donley, Jr., editor. Writers and editors include Howard Carroll and Ben Kittner, NEA; Tommye Hutto, Florida Teaching Profession/NEA; and Nancy Papas, Indiana State Teachers Association. Design by William J. Kircher & Associates.*

ed this year will be the ones who will decide the fate of the Equal Rights Amendment, which still needs passage in three states to become part of the U.S. Constitution.

In other states, citizens will make decisions on referendums to cut or limit the funds needed to run the public schools and to pay its teachers. In one large state, right-wingers are trying to get voters to mandate the use of state funds for a voucher system of school payments.

These questions, I maintain, are ones of intense interest to the teachers who make up the membership of our National Education Association. If we teachers have to become politicians and work with politicians to decide these issues, we will do so.

As chairperson of our Association's Political Action Committee, I will fight to strengthen our political clout.

One decision that NEA-PAC and the NEA Board of Directors have already made in this election year is to support President Carter in the Presidential primaries. This recommendation opens the way for NEA assistance—both money and volunteer efforts—for the President in both primary and caucus states where the NEA state affiliate has also acted favorably on this support.

This option for primary support—though not formal endorsement—was voted by NEA-PAC and the NEA Board because the Carter Administration has given education funding a significantly high priority. The Administration has kept its pledge to back ERA; it has generally supported NEA's work toward improving human rights; it has helped fight tuition tax

**"I'LL BE ON THE POLITICAL FIRING LINE THIS YEAR. I HOPE YOU WILL BE THERE WITH ME."**

credits; and, of course, it was extremely zealous in pursuit of a Cabinet-level Department of Education.

This NEA action has cleared the way for much teacher activity in the early primaries and caucuses. It has provided evidence, too, that teachers realize that politics is a year-round concern.

Elections are won, we now know, not by rah-rah politicking on the eve of November; they are won by continuous hard work that goes on months, even years, before the ballots are cast.

That is why NEA-PAC, state PAC's, and local PAC's are working every month of every year. They are helping to encourage good women and men to enter politics; they are examining the issues and evaluating candidates; they are helping potential candidates raise the money so necessary to a campaign; they are endorsing candidates; and they are canvassing, telephoning, knocking on doors, and licking envelopes to help elect their candidates to office.

How successful are teachers at this? In the past two election years (1976 and 1978), candidates endorsed by NEA-PAC won in some 80 percent of the races. And our state PAC's had just as good a record.

This year teachers will become at least part-time politicians in more elections than ever before. More states are holding primaries, selecting caucuses, choosing party convention delegates than ever before. And, more than ever, teachers are realizing the importance of their role in the political processes.

The *Today's Education* feature that begins with this article tells about the political process—and about how teachers can become involved with education associations in political action. It also tells about some teachers who are already working in the political arena to be part of the democratic mechanism that guides our nation.

I hope you will want to be part of this process. I hope you will join with your NEA colleagues to assure a teacher voice in politics. If your association has a political action group, join it. If your association needs a push to get politically active, you can give it that push.

I know that every one of us cannot be a political activist. But there is one thing every one of us can do, and I urge you to do it—*give dollars* to your political action committees. NEA-PAC needs money to help counter the vast sums raised by right-wing and business-oriented groups on behalf of extremist, antischool candidates. Your dollars can make a difference.

I'll be on the political firing line this year. I hope you will be there with me. □

# AN HONORABLE PROFESSION

# POLITICS

*"Politics, as practiced effectively and enthusiastically by masters, can be an important, interesting, and honorable profession. Important and interesting, because in the last analysis the saving of our public schools, the safety of our public streets, and the sensibleness of our public debate are all political questions. . . ."*

*Excerpted from an editorial in the* Washington Post *that appeared on November 12, 1979.*

For teachers, the political questions in 1980 loom larger than ever before. Critical decisions about the future of public education and teachers will be made by federal officials—including the President and members of Congress who will be elected on November 4.

Teachers are angry about violence in the schools and about the mental and physical stress that are driving thousands of them out of the classroom.

Teachers are upset over the misuse of standardized tests in schools, the undermining of teacher pension plans, the inequities in Social Security benefits, and the proposals calling for voucher plans and tuition tax credits.

Teachers are concerned because the Equal Rights Amendment has not yet been ratified in the necessary states to make it an Amendment to the U.S. Constitution.

Teachers are disgusted with politicians who criticize the public schools and then turn around and slash school funds.

Teachers are fed up with politicians who deny teachers the basic human right to negotiate salaries and working conditions.

And teachers are angry about attacks on the public schools from the New Right, which is raising large political funds aimed at defeating candidates who support teachers and the public schools.

But teachers can fight back. And they can, at the same time, be effective politicians as well. Teachers can vent their anger and frustration by helping to put friends of education in the White House, the U.S. Senate, and the U.S. House of Representatives.

NEA-PAC provides a vehicle for all teachers to demonstrate their commitment to the great political questions of our time.

Keep in mind that membership dues cannot be used for contributions to help elect friends of education. That's why it's necessary that members demonstrate their political rights through voluntary contributions to NEA-PAC.

## A Special Challenge

This 1980 political year presents a special challenge for teachers because adversaries of public education are out in full force. The National Right to Work Committee, for example, is a member of the leadership workshop of the New Right which helped defeat several friends of education in the 1978 Congressional elections. And a substantial number of pro-education incumbents in Congress have been targeted to be replaced by New Right candidates in the November elections.

Active in raising political money, the New Right is committed to electing extremist candidates, Republicans and Democrats alike, who vote against education issues when they come up in Congress.

This extremist coalition works vigorously to defeat much of the legislation that teachers support. For instance, the New Right is opposed to collective bargaining for teachers, increased federal funding of public education, and ERA—all major NEA legislative priorities.

At the same time, the New Right and other conservative political action committees are the same interest groups who have charged NEA with being "too powerful." They have made these charges despite the fact that in the 1978 national elections, NEA-PAC was outspent by these same groups by as much as 105 to 1 ($3 million to $330,000).

## Don't Sit Idly by

That's why it's crucial that teachers help in electing more friends to Congress and not sit idly by and watch opponents of education replace pro-education incumbents.

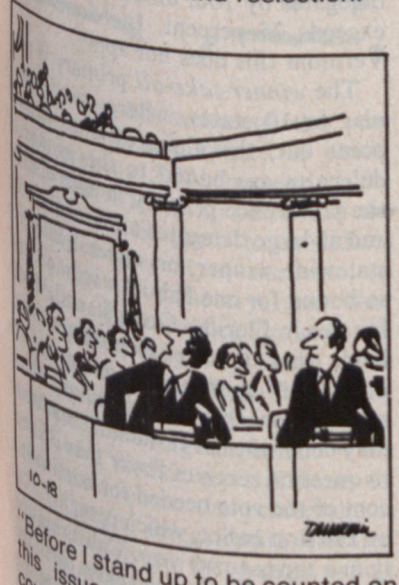
Some NEA state affiliates are making plans to ask or have already asked members to increase their voluntary contributions for political action during the current membership year. For example, the Arizona, California, New Mexico, Oklahoma, and Washington State affiliates are asking members to contribute even more than they have in the past.

The policy of asking all NEA active members to give to NEA-PAC was approved in 1973 by the NEA Representative Assembly. The 1979 Assembly also called for an increased effort during the 1980-81 membership year.

NEA-PAC's success in electing friends of education depends on your willingness to support political action with your dollars and your commitment to improve your investment, as a teacher, in the future of our nation. Your support of NEA-PAC helps you to take an active role in the political decisions of 1980.

# WHAT IS NEA PAC AND HOW DOES IT WORK?

"Inflation is my number two concern . . . right behind reelection."



"Before I stand up to be counted on this issue, I want to see who's counting."

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The National Education Association established its Political Action Committee (NEA-PAC) at the beginning of the 1972-73 membership year. Its purpose is to receive voluntary contributions from NEA members to help elect pro-education candidates to federal office. The Federal Election Campaign Act of 1971 expressly authorizes political action committees such as NEA-PAC.

The NEA's Political Action Committee provides an opportunity for members to work together to ensure that candidates make a commitment to education. Through NEA-PAC, teachers can stand strong and unified for positive change. NEA-PAC's success in helping to elect officials who believe in education, understand teachers' problems, and stand up for teachers' rights, depends on the participation of individual members.

Political action by teachers pays off.

NEA-PAC has an impressive record in recent Congressional campaigns, electing 290 of 349 NEA-PAC-endorsed candidates in 1976 and 211 of 271 in 1978. Also, NEA's teacher members were the largest single delegation at both major political party national nominating conventions in 1976.

Pro-education candidates that teachers helped to elect have enabled NEA to increase federal aid to state and local schools from $12 billion to $15 billion annually—a 25 percent increase, the largest single yearly increase in federal aid in U.S. history.

NEA-PAC-elected candidates provided the Congressional votes to win enactment of the new Department of Education. They helped, too, to enact the Teacher Centers program and to improve federal programs in special education, vocational education, and higher education.

NEA-PAC is governed by a council made up of teacher representatives from state affiliates.

Recommendations for candidate endorsement and support are submitted to NEA-PAC, which screens candidates of the various parties, ascertaining their positions on education, teachers' rights, and economic issues. Prior voting records and public position statements are carefully examined and candidates are interviewed. The basis for candidate assessment is NEA policy as established by the annual meetings of the NEA Representative Assembly.

Endorsements by NEA-PAC of federal candidates in a state may be made only with the written concurrence of the state affiliate of NEA.

Your voluntary NEA-PAC contribution is eligible for a credit against your federal income tax. One-half of the amount contributed may be used for credit up to a maximum of $50 ($100 if filing a joint return). For example, a $25 contribution to NEA-PAC would be eligible for a $12.50 credit against the amount of federal income tax owed.

Send contributions to NEA-PAC to National Education Association, Political Action Committee*, 1201 16th St., N.W., Washington, DC 20036.

**The National Education Association Political Action Committee (NEA-PAC) collects contributions from NEA members and uses those contributions to help elect friends of education to federal office. Contributions to NEA-PAC are voluntary and not a condition of membership in NEA or any of its affiliates. A copy of the NEA-PAC report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, DC.*

*By law, NEA-PAC may not generally solicit contributions from persons other than NEA members and their families. Other persons should not make contributions to NEA-PAC.*

# YOU AND YOUR PRIMARY

Presidential primaries have a way of confusing people unnecessarily, what with the little wrinkles in the rules and the slight variations in procedures from state to state; so I thought it might be helpful if I used this space to clear the cobwebs. There are a couple of procedural changes for 1980, however, that ought to be mentioned at the outset; this year the New Hampshire national convention delegates will be listed in alphabetical rather than preferential order. Also, in Illinois the state party will decide whether or not delegate-candidates will be identified by Presidential preference in the primary ballot, though at the moment it is thought that Democratic delegates will be identified by preference, but that Republican delegates will not, leaving open the question of exactly how Republican delegates will be identified, if at all.

Otherwise, the procedures are straightforward as usual, with 34 states, including the District of Columbia, revving up excitedly for their primaries, except for Arkansas, where only Democrats will hold a primary this year, and Michigan, where the Democrats will hold a primary only if the legislature enacts a law by October 1 (which regrettably has passed), and Mississippi, where the Democrats will not hold a primary and the Republicans will not decide whether to hold a primary until December.

As in every year, there are three types of primaries, the *advisory Presidential preference* primary being that used in eight states, in each of which except for Montana and Vermont, this year's delegate-candidates will be elected if they receive the highest number of votes in their districts, although, unfortunately, the Democratic National Party has prohibited this system, and now requires proportional allocation of delegates who receive the threshold percentage of votes—that, as you'd expect, being determined by dividing the number of delegates by 100, unless the threshold exceeds 25 percent. In Montana and Vermont this does not apply.

The *winner-take-all* primary is popular in 10 states, where, needless to point out, the Congressional district delegates are bound to the winner of the preference primary in each district and at-large delegates are bound to the statewide winner; or, at least they are so bound for one ballot in Indiana, and for two in Florida, Georgia, and Maryland; that is, the Republicans are, unless, of course, the delegates are released on the second ballot, which may occur if the Presidential candidate in question receives fewer than 35 percent of the vote needed for nomination on the first ballot, which is highly likely in a topsy-turvy year. California and Vermont remain special cases as, in the former, all delegates are bound to the statewide winner, and, in the latter, 10 of the state's 19 delegates will go to the top vote-getter, provided, naturally, that he or she receives at least 40 percent of the vote.

Proponents of the *proportional representation* primary will be pleased to

learn that in Massachusetts this year delegates will be allocated to candidates receiving 2.381 percent of the vote, while in Idaho 80 percent of the delegates will be given to candidates receiving 5 percent of the vote, or more, which is a far cry from New Hampshire (where delegates are to be listed alphabetically) and North Carolina, in which at least Republican delegates are allocated proportionately to candidates receiving 10 percent of the vote, and a farther cry still from six other states where the percentage is 15. In Oregon, delegates are allocated proportionately to the nearest whole number, whatever that happens to be, in Oregon.

Which brings us to how names get placed on ballots (a procedure that frankly confuses even me sometimes). In 25 states and the District of Columbia, the candidate or his or her supporters, or both, must file a petition signed by a minimum number of voters, which number varies from state to state, or pay a filing fee, or both, or do neither in California, Connecticut, Maryland, Massachusetts, Michigan, Nebraska, Nevada, Rhode Island, Tennessee, and Oregon, where the matter is left to the secretary of state (of the state, of course) or, in some states, to the state party, whose decision may be appealed, or in six other states, come to think of it, where the filing is done by a nominating committee. It goes without saying that candidates not named by such a committee may file either a request or a petition, although not in South Dakota, which requires a writ of mandamus, or in Kentucky, where the candidate must post a fee of $250, refundable if he or she receives less than 3 percent of the vote.

That leaves only the withdrawal of candidacy, which is simply a matter of filing an affidavit (in eight states—unless, as in the case of Nebraska, a candidate's name appears on another state's ballot) or of notifying the secretary of state (in 12 states) or of failing to raise $250 in Kentucky. In Connecticut, candidacy withdrawal is not permitted, unlike the District of Columbia, where there are no provisions for it.

And that's about it, really, if you don't count such bits and pieces as Texas, where delegates are bound to the candidate on the third ballot if the candidate receives more than 20 percent of the vote on the second ballot and—oh, yes—Alabama, where delegates are bound to the candidate on all ballots unless released by a two-thirds vote of the state's delegation similarly bound.

Any questions? □

This article by Roger Rosenblatt appeared in the October 15, 1979, issue of the *Washington Post*. Copyright © by the *Washington Post*.

# State-By-State Listing of Important Dates in the Presidential Nominating Process

| State | Event | Date* |
|---|---|---|
| Alabama—Democrats | Presidential Primary | March 11 |
| Alabama—Republicans | Presidential Primary | March 11 |
| Alaska | Deadline GOP Precinct Caucuses | March 6 |
| | Democratic Precinct Caucuses | March 11 |
| | Republican State Convention | April 19-20 |
| | Democratic State Convention | May 17-18 |
| Arizona—Democrats | Statewide Delegate Selection Meeting | May 24 |
| Arkansas—Democrats | Presidential Primary | May 27 |
| Arkansas—Republicans | Congressional District Delegate Selection | February 2 |
| | At Large Delegate Selection | February 16 |
| California—Democrats | Presidential Primary | June 3 |
| California—Republicans | Presidential Primary | June 3 |
| Colorado | Precinct Caucuses | May 5 |
| | Democratic First Congressional District Convention | May 17 |
| | Democratic Congressional District Conventions | June 13 |
| | Democratic State Convention | June 14 |
| Connecticut | Presidential Primary | March 25 |
| Delaware—Democrats | District Meetings | March 12 |
| | State Convention | May 24 |
| Delaware—Republicans | State Convention | May 3 or 10 |
| District of Columbia | Democratic Congressional District Caucuses | February 16 |
| | Presidential Primary | May 6 |
| Florida | Presidential Primary | March 11 |
| Georgia | GOP Precinct Caucuses | February 16 |
| | Presidential Primary | March 11 |
| Hawaii | GOP Precinct Caucuses | January 29 |
| | Democratic Precinct Caucuses | March 11 |
| | Republican State Convention | May 16-17 |
| | Democratic State Convention | May 30-June 1 |
| Idaho | Democratic Legislative District Caucuses | April 17 |
| | Presidential Primary | May 27 |
| Illinois | Presidential Preference Primary | March 18 |
| Indiana | Presidential Preference Primary | May 6 |
| | Democratic State Convention | June 9-10 |
| | Republican State Convention | June 12-13 |
| Iowa | Precinct Caucuses | January 21 |
| | Democratic Congressional District Conventions | April 19 |
| | Republican Congressional District and State Conventions | June 6-7 |
| | Democratic State Convention | June 14 |
| Kansas | Presidential Preference Primary | April 1 |
| Kentucky | Presidential Preference Primary | May 27 |
| Louisiana | Presidential Preference Primary | April 5 |
| Maine | GOP Municipal Caucuses | February 1-March 15 |
| | Democratic Municipal Caucuses | February 10 |
| | Republican State Convention | April 19-20 |
| | Democratic State Convention | May 16-18 |
| Maryland | Presidential Primary | May 13 |
| Massachusetts | Presidential Preference Primary | March 4 |
| Michigan | Democratic County Caucuses | April 26 |
| Michigan | Democratic Congressional District Conventions | May 3 |
| | Presidential Preference Primary | May 20 |
| Minnesota | Republican Congressional District Conventions | April 18-May 10 |
| | Democratic Congressional District Conventions | April 19-May 4 |
| | Republican State Convention | May 29-31 |
| | Democratic State Convention | June 6-8 |
| Mississippi—Democrats | Precinct Caucuses | January 26 |
| | Congressional District Conventions | March 1 |
| | State Convention | March 9 |
| Mississippi—Republicans | Delegate Selection Primary | June 3 |
| Missouri | GOP County Conventions | April 5-12 |
| | Democratic Conventions | April 22 |
| | Republican Congressional District Conventions | April 26-May 3 |
| | Republican State Convention | May 30-31 |
| | Democratic Congressional District Conventions | June 3 |
| | Democratic State Convention | June 14 |
| Montana | Presidential Preference Primary | June 3 |
| | Republican State Convention | June 14 |
| Nebraska | Presidential Preference Primary | May 13 |
| Nevada | GOP Precinct Meetings | February |
| | Democratic Precinct Meetings | February 19 |
| | Presidential Preference Primary | May 27 |
| New Hampshire | Presidential Preference Primary | February 26 |
| New Jersey | Presidential Preference Primary | June 3 |
| New Mexico | Presidential Preference Primary | June 3 |
| New York | Presidential Primary | March 25 |
| North Carolina | GOP Precinct Caucuses | March 5-April 1 |
| | Democratic Precinct Caucuses | March 13 |
| | Presidential Preference Primary | May 6 |
| North Dakota | Republican State Convention | April 17-19 |
| | Democratic State Convention | (To be announced) |
| Ohio | Presidential Primary | June 3 |
| Oklahoma | Democratic Precinct Caucuses | March 11 |
| | GOP Precinct Caucuses | April 7 |
| | Democratic Congressional District Conventions | April 19 |
| | Republican Congressional District Conventions | May 3 |
| | Democratic State Convention | May 3-4 |
| | Republican State Convention | May 31 |
| Oregon | Presidential Preference Primary | May 20 |
| Pennsylvania | Presidential Preference Primary | April 22 |
| Rhode Island | Presidential Preference Primary | June 3 |
| South Carolina | GOP Precinct Caucuses | February |
| | Democratic Precinct Caucuses | March 15 |
| | Republican Primary | March 8 |
| | Democratic State Convention | April 12 |
| South Dakota | Democratic Legislative District Caucuses | February 2 |
| | GOP County Meetings | March 11 |
| | Presidential Preference Primary | June 3 |
| Tennessee | Presidential Preference Primary | May 6 |
| Texas | Democratic Precinct Conventions | May 3 |
| | Republican Presidential Preference Primary | May 3 |
| | Democratic State Convention | June 20-21 |
| Utah | Democratic State Convention | June or July |
| | Republican State Convention | June 27-28 |
| Vermont | Democratic Town Caucuses | April 14-24 |
| | GOP Town Caucuses | April 20-30 |
| | Presidential Preference Primary | March 4 |
| | State Conventions | May 24 |
| Virginia—Democrats | Mass Meetings | March 29 |
| | Congressional District Conventions | April 12-May 3 |
| | State Convention | May 16-17 |
| Washington | Precinct Caucuses | March 11 |
| | Republican State Convention | June 6-7 |
| | Democratic State Convention | June 14 |
| West Virginia | Presidential Preference Primary | June 3 |
| Wisconsin | Presidential Preference Primary | April 1 |
| Wyoming | GOP Precinct Caucuses | February 4-March 5 |
| | State Conventions | May 10 |
| Puerto Rico | Republican Presidential Primary | February 17 |
| | Democratic Presidential Primary | March 16 |
| Guam-Democrats | Regional Convention | May 3 |
| Latin American Regional Democratic Party | Regional Convention | June 7 |
| Virgin Islands—Democrats | Regional Convention | by June 23 |
| Republican National Convention, July 14-18, Detroit | | |
| Democratic National Convention, August 11-14, New York | | |

*Some of these dates may change, and other dates had not been decided at press time. Please check with your local political parties for additional information.

*Leon Classroom Teachers Association members leave FTP/NEA headquarters in Tallahassee to cast their votes for the Carter-Mondale slate.*

# FLORIDA TEACHERS ARE READY FOR NOVEMBER RIGHT NOW

POLITICS 1980

NEA teachers in the Sunshine State got an early start in 1980 Presidential politics. They turned out in record numbers for statewide Democratic caucuses in October, and they gave Carter delegates a two-to-one victory.

In Leon County, where the Carter slate included two members of the Leon Classroom Teachers Association, an FTP/NEA affiliate, Carter took all but one delegate seat.

Escambia Education Association members provided coffee and baby-sitting service for their teachers and for other Democrats; its Carter slate won every delegate. "We elected 11 teachers out of a total of 20 delegates," exulted EEA Political Action Committee Chair Charles Payne. "Plus, two of the four county executive committee delegates are our members. We're ready for next November right now!" he said.

It was the same all around the state as FTP/NEA teachers won 63 seats in the caucuses, 11 in executive committee elections, and at least two regular party appointments, one of which is also a state senator, Don Chamberlin, a teacher from Pinellas County.

*Don Anders, of the Pinellas Classroom Teachers Association, passes out PCTA-Carter slates as busloads of Democrats gather to vote in St. Petersburg.*

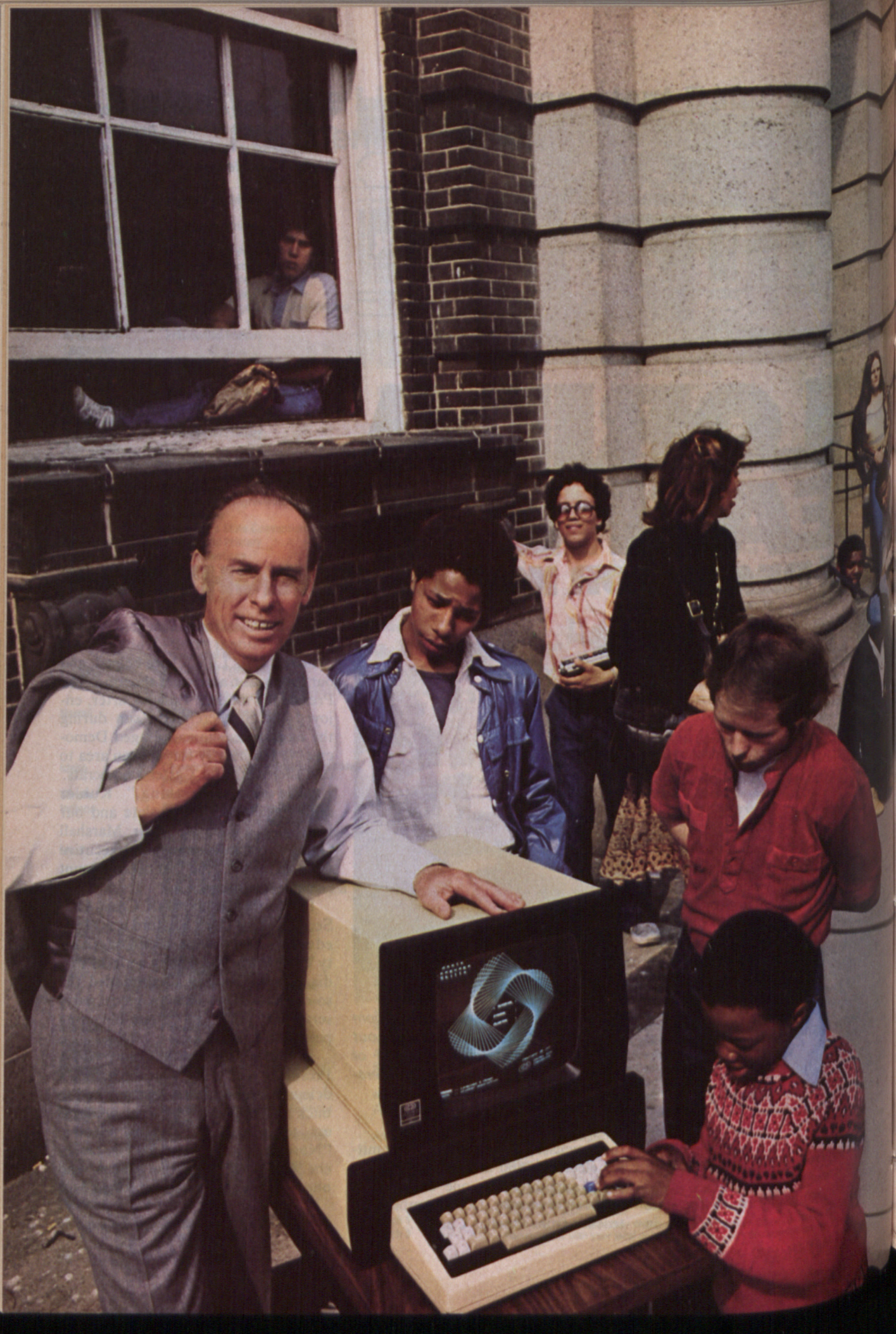
Pinellas Classroom Teachers Association President Lou Kubler said, "Having Miss Lillian here helped, and our folks put Carter over the top." The President's mother, Lillian Carter, enjoyed the St. Petersburg sun during the election as she encouraged Democrats in the heavily Republican area to cast their votes for Carter Democrats.

"We won everything," Kubler said—"teachers on our slate and our legislative committee chair Marshall Ogletree on the Democratic Executive Committee list. And that doesn't count Senator Chamberlin."

In North Florida, Gulf Coast UniServ Director Gene Stafford was elected as one of the seven Okaloosa County Democrats. According to local media reports, Stafford "ramrodded the so-called 'teacher slate' in a local party scrap with labor and a late-blooming politician's slate."

In mid-state, Orange County CTA President Joan King, who was named a delegate, reported that teachers had to buck a strong effort by local firefighters to get their delegates elected. "Nevertheless," King said, "six teachers were elected at the caucus, and one—Betty Ann Bazamore—was

*continued on page 36*



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W. J. Ridley
Vice President, Academic Education
Control Data Corporation

"I was a teacher and administrator for 22 years, and I'm proud of what we educators have accomplished within the school system.

"Now, I'm with Control Data Corporation because when I saw what PLATO computer-based education can do for the learning process, I knew my greatest contribution was still before me.

"The PLATO learning system, carefully blended with the best of traditional instruction, is the recipe for education in the future. The two systems don't compete, they complement each other.

"Because PLATO instruction is individualized, each student proceeds at his or her own pace. This helps us with students we normally don't reach with traditional instruction. One of the reasons the system works is that the student gets positive feedback and praise in a patient, understanding way. The teacher monitors the system and now has more time to help students individually.

"Both youngsters and adults find the system equally fascinating. At the Adult Learning Center here in Baltimore, for example, the same PLATO computer-based education system that is helping children learn to read and write in primary schools is improving the basic skills of the functionally illiterate.

"Here and in similar centers in Minnesota and Texas, many people in the program advanced their reading, writing or math skills a grade level or more in 30 hours or less. Other programs in the military and at correctional institutions are achieving equally positive results.

"I also see the potential of PLATO instruction in relieving the teacher of much of the administrative duties that restrict their performance. He or she can spend more time teaching—less time grading and passing out papers.

"So now my goal is to integrate what PLATO terminals can do with the best of what traditional education can do. The system is proven, it's cost-effective, and it's available today.

"To learn more about how PLATO computer-based education can enrich traditional education, write to me, Bill Ridley, at Control Data, HQN11I, P.O. Box 0, Minneapolis, MN 55440…Control Data Corporation, a company meeting important needs, worldwide."

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CIRCLE QUICK-ACTION CARD NO. 75

POLITICS 1980 CONT.

# FLORIDA TEACHERS

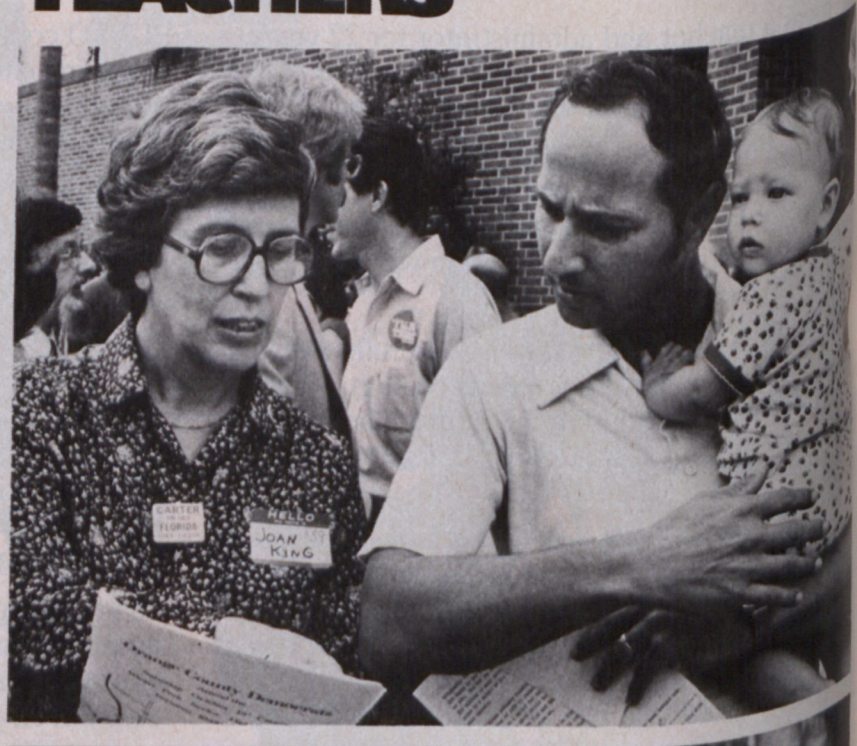
*continued from page 33*

elected by the Democratic Executive Committee in the county."

Marion County, in the United UniServ District, also won big, electing seven teachers out of 12 delegates. Citrus County won two out of three, Hernando County one of three. In each case, the Carter slate came out on top.

In Polk County, the Polk Education Association took five seats—three from the Executive Committee election, two from the caucus.

And in tiny St. Johns County, located on the Atlantic coast, two teachers were elected to fill half the total seats. The county sends only four delegates to the statewide convention.

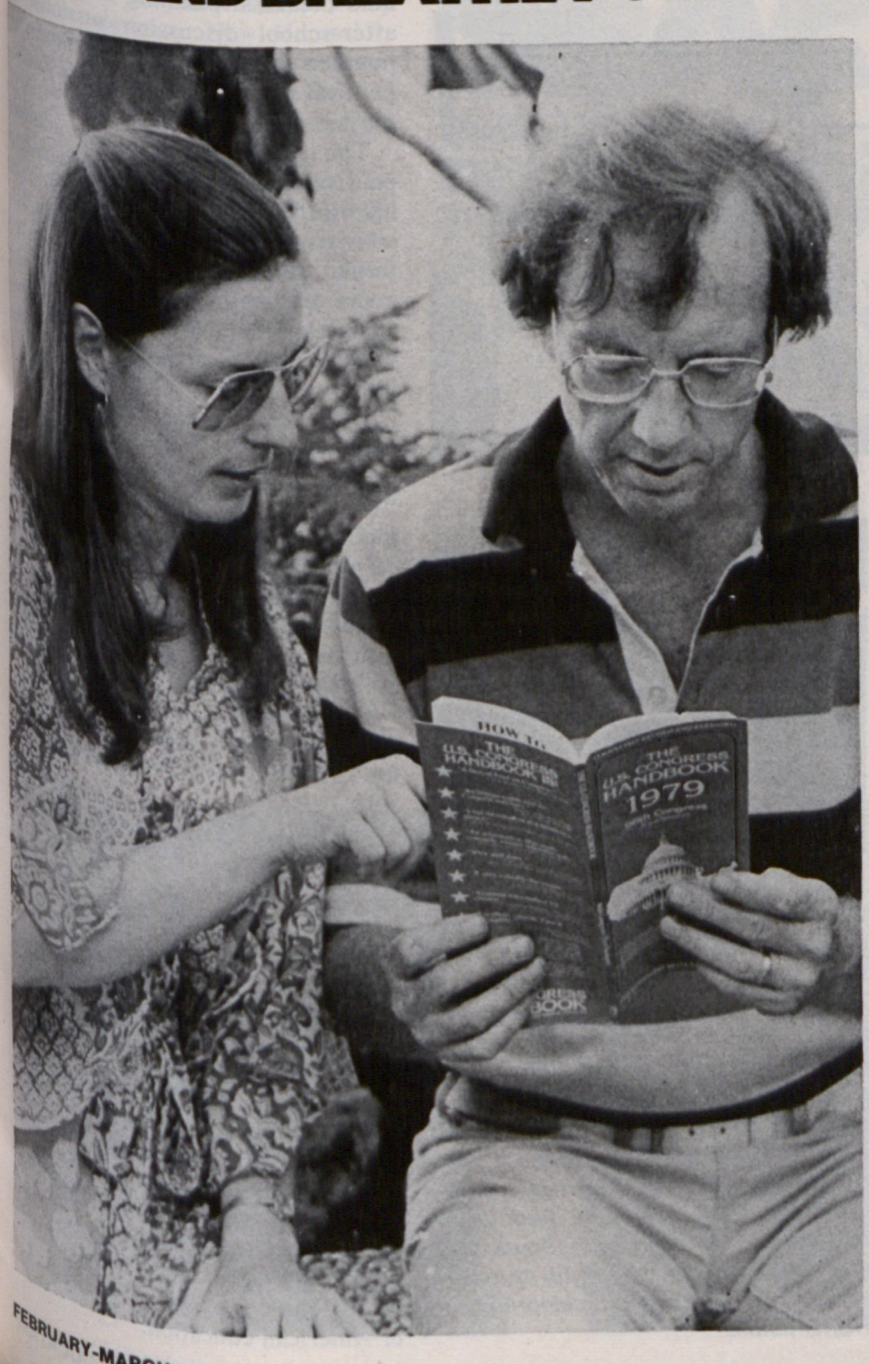



*Orange County CTA President Joan King, who was elected to the party convention, discusses the Carter-teacher slate with another teacher as one very young Democrat looks on.*

*Rita Ruge, a Leon Classroom Teachers Association member, congratulates newly elected delegate Eddie Kilpatrick, also an LCTA member.*

*Leon Classroom Teachers Association member Laura Wiggins marks her ballot as other teachers consider the slate.*

# SOUTHERN CALIFORNIA TEACHERS LIVE AND BREATHE POLITICS




California's 27th Congressional District is a narrow crescent along the Pacific Ocean, some 30 miles long. On a clear day, a viewer in Redondo Beach can see Santa Monica's beach to the north and Palos Verdes Point to the south.

The view—a dramatic contrast of dark blue and green waters, beige sand, white-and-brown homes and apartments hugging the low rises—seems much the same whether seen from Redondo Beach, Playa Del Rey, or Venice. But the homogeneity is in appearance only. The citizens who live along this Pacific strip are split nearly fifty-fifty in their political preferences and ideology.

In the last Congressional election here, in 1978, voters chose Representative Robert K. Dornan, a conservative Republican, by a whisker over Carey Peck, a liberal Democrat. The vote was 86,904 to 84,364.

In 1978, a coalition of NEA teachers made up a hard-working core of support for Peck. Organized as the South Bay United Teachers Political Action Committee, they endorsed the youthful Democrat and went to work for him. Representing nine Southern California local associations, they raised funds, surveyed voters, handed out brochures, held wine-and-cheese parties to introduce the candidate, and spread "Teachers for Peck" lawn signs throughout the district.

Although their candidate lost the election, the teachers did not lose their political enthusiasm. The returns were hardly in when their Political Action Committee began digging in for the 1980 election, which is expected to be a rematch between the conservative incumbent and the liberal challenger.

"An off year is not time off for

*Bob Dye, chairman of the South Bay teachers political committee, checks political facts with Dot Lee, also a South Bay teacher and a member of the committee. South Bay teachers keep their political interest high even during off years between elections.*

**POLITICS 1980 CONT.**

# CALIFORNIA TEACHERS

*Politician Carey Peck (third from left) meets with South Bay teachers to ask their support in 1980 as they gave it in 1978. The teachers are considering endorsing Peck in the June Democratic primary.*

either candidates or political activists," said Roger Schriefer, who chaired SBUT-PAC in 1978 and is a key member of the group working to keep the teacher coalition together for the upcoming election. "We are doing what the candidates do," said Schriefer, "maintaining contacts, building up our forces, planning for the next go-round."

Added Bob Dye, the current SBUT-PAC chairman, "We have continued the ongoing, involved support of teachers since that close election."

Carey Peck came to the teachers last year and announced that he would run again. He had launched his 1978 campaign with an appearance at a SBUT-PAC meeting; he hoped to have teachers out in the forefront of his campaign again this year.

He is likely to get that support. Dye said that as early as November the teachers group was considering not only endorsing Peck again, but considering an endorsement of him in the Democratic primary in June.

"There is strong sentiment among our teachers for a primary endorsement," said Schriefer. "Many of us are eager to ensure that Carey is seen as the teachers' candidate right from the start."

*In the 1978 Congressional election, Carey Peck had support from his father, Gregory Peck, as well as from such stars as Liza Minelli, Kirk Douglas, and Angie Dickenson. Incumbent Congressman Robert Dornan could count Jimmy Stewart, Gene Autry, Pat Boone, and others on his side. The 1980 campaign promises to be another star war, as each politician surrounds himself with Hollywood celebrities. Above, at a political fund-raiser, candidate Peck (second from right) talks with South Bay teacher Roger Schriefer (right) as teacher Bob Dye (left) and film celebrity Carl Reiner listen.*

Meanwhile, South Bay teachers are building their political strength. They were deeply involved in a 1979 school board election. They have attended candidate fund-raisers, including events designed to gather funds for Carey Peck.

These California teacher-politicians maintain a "phone tree" political communications system year-round. They hold breakfast planning meetings and after-school discussion sessions. A number of them have been trained in political skills by the California Teachers Association/NEA.

The teachers have also kept up their political lobbying. Roger Schriefer and his wife Vi, along with dozens of other activists from the 27th and other California districts, spent thousands of hours pressing legislators—including Congressman Dornam—for positive votes on the Department of Education bill.

"The most intense lobbying contact comes in the off year, between elections," explained Roger Schriefer. "That's when the legislators are working hardest, and that's when the political action pays off—when the legislation is in front of them."

South Bay teachers also used the off year as a time to add to association political war chests. A SBUT appeal for funds last year asked every teacher in five bay local associations to contribute $2 for NEA-PAC and $1 for SBUT/PAC.

The appeal reminded teachers that "times have changed. The financial future of all schools is not being determined locally, but in Sacramento and Washington, DC."

CTA/NEA officials call what the South Bay teachers are doing "an example of what other locals can do."

Now in its seventh year, SBUT/PAC is one of the most effective political action groups among California teachers. As South Bay teachers go into the 1980 elections, they intend to keep their record going and to continue to prove that teachers—as never before—have the skill and the will to make politics work for the betterment of American education. □

# NEW HAMPSHIRE TEACHERS

## WARM UP FOR FEBRUARY PRESIDENTIAL PRIMARY

Most of us see political leaders only on television; New Hampshire voters meet Presidential candidates in person at cocktail parties, in front of grocery stores, and at their front doors.

According to teacher Nancy Andrews of Portsmouth, most of the independent-minded voters here won't decide who to vote for until they've met each candidate in person at least twice. And getting New Hampshire teachers to meet and support Jimmy Carter in the state's crucial Presidential primary is her challenge.

Andrews is vice-president of NHEA/NEA and chair of its government relations committee. Her committee is charged with implementing the NHEA/NEA Executive Board's decision to support Carter in the primary based on his record of achievement in education.

The campaign kick-off occurred at the October NHEA/NEA convention, when Vice-President Walter Mondale addressed the crowd of teachers at Manchester Memorial High School.

The Vice-President said education was a top priority because it is the "hope for the future of the country." He praised teachers and their role in society and expressed disgust that teachers who want to spend their time teaching are forced to do so much paperwork. Hundreds of teachers applauded.

After the convention, Andrews and her committee began collecting lists of teachers interested in political involvement for the coming year. The campaign organization will be built on the lists of volunteers. Teacher volunteers will help the Carter/Mondale Presidential Committee type address labels, look up and list telephone numbers, and lick envelopes. The teachers will also get signatures of registered Democrats on petitions so that President Carter's name can be placed on the ballot for the February 26 primary. Five hundred signatures are required. The teachers aim to help get over 3,500.

The New Hampshire teachers set up a preprimary workshop in January, one month before the primary, to "get out

*Smiling after passage of the separate Department of Education bill are (from left) Vice-President Walter Mondale, NEA Director Dorothy Jenis, President Jimmy Carter, and NHEA/NEA President Bill Shanahan.*

POLITICS 1980 CONT.

# NEW HAMPSHIRE TEACHERS

the vote, take a last look at the candidates, test our grass-roots system, and encourage activists," says Andrews.

The NHEA/NEA committee will also help teachers become delegates to the national political conventions so that education issues will be heard.

"Many teachers are apprehensive about committing themselves to one candidate," says Nancy Andrews. "What we mostly want are teachers involved in the election process." □

*NHEA/NEA President Bill Shanahan thanks President Carter for his support of the separate Department of Education. "There is no question why we should support him for reelection," says Shanahan. "He delivered what he said he was going to."*

*Dorothy Jenis of Manchester, New Hampshire, meets President Carter after passage of legislation creating the Department of Education. She is an NEA Director who attended the 1976 Democratic Convention as a delegate. Jenis, a member of the New Hampshire Carter/Mondale Presidential Committee, says, "There has never been a President in history that has done for education what Carter has done. His concern for the children of this country deserves to be rewarded."*

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CIRCLE QUICK-ACTION CARD NO. 48

# INDIANA TEACHERS TRAIN FOR 1980 RACE

**POLITICS 1980**

Senator Birch Bayh, Representative John Anderson, Representative Dan Quayle, Representative Dave Evans, and Representative Floyd Fithian were among the politicians gathered at the Indiana State Teachers Association (ISTA) campaign kick-off workshop last fall.

Republican and Democratic state committee officials taught teachers how to become delegates to the state and national conventions of their political parties. Teachers indicated their party registration on data cards so appropriate party materials and procedural information can be sent to teachers during the campaign season.

*Indiana Senator Birch Bayh talked with teachers about the upcoming political year at ISTA's Political Action Workshop. Bayh voted for the separate Department of Education during the last session of Congress.*

In 1976, Indiana sent almost 20 teachers to the national political conventions. PAC money raised by teachers helped defray their expenses. This year ISTA's goal is to elect no fewer than two teachers per school district (one Republican and one Democrat) as state convention delegates. Indiana teachers aim to help write education into their party platforms this year.

According to ISTA Legislative Relations Specialist Nancy Papas, "We were the first group in the state to hold delegate selection training this early. Even the political parties haven't given grass-roots training sessions yet. Every local PAC in the state is ready to go.

When newscasters and reporters covered the teacher workshop, they

*continued on page 44*

*One of the GOP contenders for Senator Bayh's seat is Representative Dan Quayle (left). He talks to Patti Fullerton of Monroe County (center), Frieda Crull of Alexandria, and Ken Warbritton of Columbus.*

# THE STORY OF VITAMINS AND THEIR ROLE IN PROPER NUTRITION

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CIRCLE QUICK-ACTION CARD NO. 47

POLITICS 1980 CONT.

# INDIANA TEACHERS

*continued from page 42*

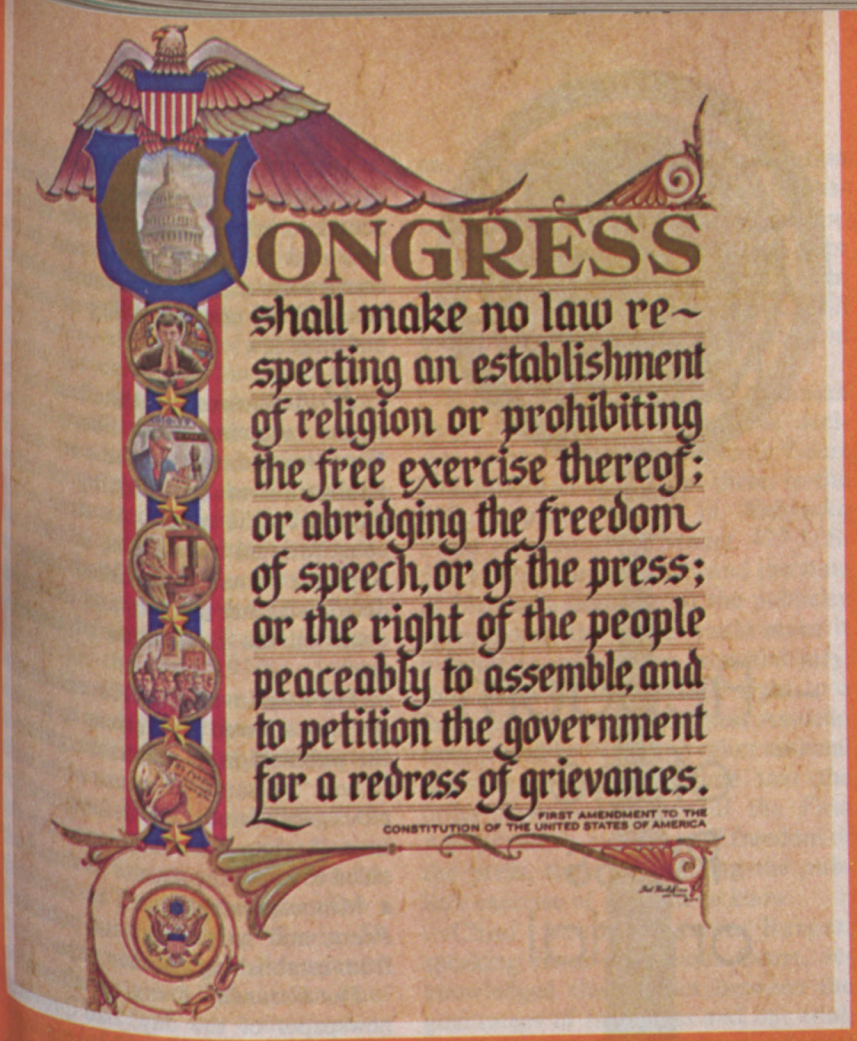
had trouble understanding why teachers want to be delegates to both Democratic and Republican party conventions. Most figured the teachers would choose one party to work in.

Papas said, "There are candidates of both parties with excellent track records. Wouldn't it be great if both candidates for President were so excellent that the children of America couldn't lose?"

The Indiana primary is set for May 6, and the announced candidates seem interested in running there. Teachers will cheer them on to the finish line, from the school house to the state house to the White House. □

*Representative John Anderson (R-Ill.) is a Republican candidate for President. Anderson supported the separate Department of Education bill when it reached the House. He talked with (from left) Kathy Chomer of Elkhart, Margie Truelove of Lafayette, and Mary Ann Surface of Elkhart.*

*Democratic Representatives Dave Evans and Floyd Fithian (right) talked with teachers at the Indianapolis workshop. Both Congressmen have helped NEA teachers since their election.*


CONGRESS
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FIRST AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES OF AMERICA

# FREEDOM OF THE PRESS

None of the revolutionary ideas that emerged from the American Revolution has proved more revolutionary than the idea of freedom of the press. None has proved more durable, and none has evoked more controversy. It has been argued that a free press is the cornerstone of democracy—without it our noble experiment with democracy would have failed. Likewise it has been argued that education is the cornerstone of democracy. It is not likely that either a free press or an informed citizenry could long endure without the other.

The schools have a responsibility to prepare a citizenry able to understand the issues involved in the maintenance of freedom, including freedom of the press. The free press, for its part, has the responsibility to ensure the public's right to know and to guard against secret government.

In his impassioned dissent in *Branzburg* v. *Hayes*, Supreme Court Justice William O. Douglas stated—

> The press has a preferred position in our constitutional scheme, not to enable it to make money, not to set newsmen apart as a favored class, but to bring fulfillment to the public's right to know.

The American public needs to become better acquainted with the great stakes involved in their right to know. The right of a free press, as well as the other rights guaranteed under the First Amendment, are not easy to understand fully. They are always in the process of being defined and clarified. Supreme Court decisions are constantly interpreting their meaning. It is essential, nevertheless, to study them, since they pertain so directly to the concept of freedom that individual citizens value most in our democracy.

Freedom of the press cannot be protected solely through court cases. It will be strengthened also when every American understands free press issues, is aware of the controversies surrounding their interpretation, and is on guard against threats to his or her right to know.

All this adds up to the need for more effective teaching on the subject of freedom of the press. Just what does the phrase freedom of the press mean? We need to understand the principle involved as well as its meaning for a democratic society.

Our inquiries lead us to believe that the issues surrounding a free press are generally not well understood and are all too often dealt with superficially in our schools. Since maintenance of freedom of the press is crucial for our society, this feature is designed to help teachers deal with the topic of the free press* in their classrooms.

The approaching bicentennial of our Constitutional Convention and of the ratification of our Constitution make this an especially opportune time to consider the Constitution and its effects on our lives today.

We have a real "need to know." Let us move ahead with the task. □

By MERRILL F. HARTSHORN
*Editor, Special Section on the First Amendment; Executive Secretary Emeritus, National Council for the Social Studies.*

**Acknowledgments**

Many of the articles in this special section have been prepared by individuals associated with the law-related education movement. The movement, which currently consists of more than 300 projects throughout the United States, is devoted to the revitalization and enrichment of citizenship and social studies instruction through education about the law. Freedom of the press is but one example of how teaching about a law-related subject can bring important social issues alive in the classroom.

The editor of this section on the First Amendment is indebted to many individuals and associations connected with the law-related education movement for assistance in preparing this feature. He is especially indebted to Norman Gross, staff director, the American Bar Association's Special Committee on Youth Education for Citizenship; Judith Hines, director, American Newspaper Publishers Association Foundation; and Todd Clark, education director, Constitutional Rights Foundation.

*The term *press* applies not only to newspapers but to all news media, including the broadcast media. For the most part, the law treats all the media alike. In the case of the broadcast media, however, there are some restrictions that do not apply to the rest of the press. Neither the stations nor the networks own the airwaves. The government regards the airwaves as a public trust, and the Federal Communications Commission (FCC) grants licenses to individual stations to broadcast on specific frequencies. The broadcast media must then abide by the rules and regulations of the FCC. The regulation of the broadcast media and the question of identical freedom for the broadcast media and the other media are not dealt with in this special section because of space limitations.

# COURTS AND THE MEDIA

## —Freedom of the Press on Trial

As articulate and zealous exponents of the need for an informed society, the news media over the years have won many courtroom battles to preserve or extend their right to report information.

Yet, if a newspaper were to print a review of cases concerning the media, 1978 and 1979 might be boxed symbolically in mourning black. During those two years, courts around the country, and in particular the Supreme Court of the United States, decided numerous cases involving media issues in a manner some of the press regarded as unfavorable to First Amendment rights.

Among these Supreme Court decisions were the following:

- Pretrial hearings may be constitutionally closed to the public and press upon request by the criminal defendant in some cases.
- Witnesses in libel cases, including newspapermen, can be questioned about their state of mind.
- Prosecutors may obtain search warrants for information in newsroom files even though the newspaper or broadcaster is not implicated in any crime.

During this same period of time, the Court declined to review a hotly debated New York ruling that rejected *New York Times* reporter Myron Farber's claim to a constitutional right to keep confidential his source's identity. The Court also declined to review decisions in Ohio and South Carolina that allowed the imposition of "gag" orders on trial participants, thus limiting the news media's access to information about criminal proceedings.

Representatives of the media were, of course, quick to proclaim that these decisions, individually and collectively, will have a detrimental effect on the public's right to know.

Have the courts, as journalists charge, turned against the media by imposing impermissible limits on their First Amendment rights to report and to publish? Or are these rights less absolute than the press would prefer? If so, to what degree must press liberty yield to other asserted rights such as the right of a criminal defendant to a fair trial or of government to investigate criminal behavior, administer a criminal justice system, or protect the nation's security?

A review of recent developments, along with earlier court decisions, will illustrate efforts of the courts to reach a balance between the interests of the media and those of other groups in society. In early cases, which involved attempts to prevent publication of information already known, the media won. In later cases, which involved access to information not known, the media lost.

This review will cover legal issues in the following areas: prior restraint; access to information; the use of cameras and broadcast equipment in the courtroom; search and seizure, subpoenas, and the confidentiality of sources; and libel law.

*Prior Restraint.* At the heart of the clause involving press liberty in the First Amendment is the very act of publication or broadcasting of information by the media. As clear as the constitutional mandate is, in 1931 the Supreme Court was called upon to decide whether statutes and the courts could curtail publication of information.

The case involved a Minnesota statute that allowed injunctions to prevent the publication of material considered to be a "nuisance" because of its malicious, scandalous, or defamatory nature. A vigorous county attorney decided to apply the statute to shut down a Minneapolis paper, *The Saturday Press,* and to prevent its publishers from establishing another paper.

*The Saturday Press,* an alternative newspaper of the day, had provoked the establishment's ire by printing a series of articles charging that a Jewish gangster was in control of gambling, bootlegging, and racketeering in Minneapolis and the law enforcement officers and agencies in the city were not energetically performing their duties. The state courts agreed with the county attorney that the newspaper's printing of the series of articles constituted a violation of the statute.

Fortunately for the media, the Supreme Court disagreed in *Near v. Minnesota,* 283 U.S. 697 (1931). The court held that the statute was unconstitutional because the state was trying to suppress offending newspapers or periodicals. Unfortunately (from the media's point of view), the Court in *Near* also stated, "Liberty of speech, and of the press, is also not an absolute right, and the state may punish its abuse." The Court went on to suggest that public officers find their remedies for false accusations in libel suits after publication and not in proceedings to restrain publications. The suggestion has kept the courts busy ever since.

It is not only the antiestablishment voice that has sought protection from prior restraint under the freedom of

**By ALFRED T. GOODWIN**
*Judge, Ninth Circuit Court of Appeals, and*
**LYNN TAYLOR**
*Former Assistant Staff Director, Public Relations, American Bar Association.*

press guarantee. Large city dailies, broadcast networks, and wire services all have fought "gag" orders—(court orders preventing the publication of information on legal proceedings. Courts have issued gag orders in some civil cases—divorces of well-known people, for example—but most often in criminal cases, particularly cases involving sensational murders.

Defense attorneys in criminal cases contend that publicity about the crime and trial proceedings will be so prejudicial to the defendant that it will make a mockery of the defendant's Sixth Amendment right to a fair trial. With increasing frequency, from the mid-1960's to the mid-1970's, judges around the country have agreed with defense attorneys and have issued restraining orders in spite of vehement press opposition.

The opportunity to challenge the constitutionality of such gag orders in the Supreme Court came in 1976 when the Supreme Court agreed to review a Nebraska case involving Erwin Simants, who was charged with a multiple murder in a small Nebraska community. The crime was committed on the night of October 18, 1975, when Simants, an unemployed handyman with an I.Q. of 75, allegedly took his brother-in-law's gun, walked to the house next door, and raped and then shot 10-year-old Florence Kellie. As other family members came to her aid, he allegedly shot them also. In all, Simants was alleged to have murdered six members of the Kellie family.

As shocking as the crime was, the trial might not have interested the Nebraska media except for the series of events that followed Simants' arrest. Local officials gave the press conflicting stories and withheld information about the case. The judge who presided over the preliminary hearing (which is required by law in Nebraska to establish that cause exists to hold an accused person for trial) refused to allow the media to report on the proceedings, which were open to the public and which lasted almost a full day. As a result, the media could not report the testimony of nine witnesses who had reported in detail the gruesome aspects of the crime.

The press, understandably, was angered by the nearly total news blackout, and the constitutional battle was on. The Nebraska Press Association appealed the restraining order to District Judge Hugh Stuart in Lincoln. Although the judge rescinded the prior order, he substituted his own, which, although more limited in scope, still prohibited considerable material from being disclosed to the public.

Still not satisfied, the Nebraska Press Association appealed the decision to the Nebraska Supreme Court and, failing in its attempt there, to the U.S. Supreme Court in *Nebraska Press Association* v. *Stuart*, 427 U.S. 539 (1976). Judge Stuart and the state of Nebraska argued that the publicity surrounding the crime would make it difficult to impanel an impartial jury, thus jeopardizing Simants' right to a fair trial. The Nebraska Press Association, joined by NBC and other national news organizations, argued that the order flew in the face of the First Amendment's guarantee of freedom of the press, thus jeopardizing the public's exercise of its right to know.

Chief Justice Warren Burger, speaking for a unanimous Court, acknowledged the conflict between the guarantees of free press and fair trial, but denied that the Court was forced to choose which right had precedence: "The authors of the Bill of Rights did not undertake to assign priorities as between First Amendment and Sixth Amendment rights, ranking one as superior to the other. . . . [I]t is not for us to rewrite the Constitution by undertaking what they declined to do." Rather, the Chief Justice continued, it was necessary to consider closely the circumstances of this case in reaching a balance of the interests.

He pointed out that a long series of cases had established that "any prior restraint on expression comes to this court with a 'heavy presumption' against its constitutional validity." In other words, those who would gag the press have the heavy burden of proving that (1) no lesser means would accomplish a specific constitutional purpose (e.g., the guarantee of a fair trial) and (2) the gag order would, in fact, be effective. The Court said that Judge Stuart had failed to meet this burden of proof and that he had erred in prohibiting the press from reporting what happened at the preliminary public hearing.

While these deliberations were going on in the Supreme Court, Erwin Simants went on trial in the county in Nebraska where he lived. The proceedings provide an interesting postscript to the academic debate. Seventy-two persons were examined for jury duty in January 1976. Of those, more than a third said they already had formed an opinion on the case, either as a result of the publicity in the media or through word-of-mouth information they had received or because of friendship with the victims. Nonetheless, four of those who said they had already formed an opinion were accepted as jurors because they said they could still view the evidence with an open mind. The jury subsequently found Simants guilty of six counts of murder. That trial was later set aside—ironically not because of widespread pretrial publicity but because the state Supreme Court concluded that the local sheriff had been careless in discussing the case with the jury.

Although the press has achieved recognition that, in general, *once it has information* it has the right to print or broadcast it, even that right is not absolute. The government can stop the publication of classified information that would be against the interest of national security.

The right to censor in order to protect national security is not invoked successfully very often. A most outstanding recent example of an unsuccessful attempt is the Pentagon Papers case, more formally known as *New York Times Company* v. *United States*, 403 U.S. 713 (1971). Daniel Ellsberg, a former government employee, leaked classified documents on U.S. involvement in Vietnam to the *New York Times* and the *Washington Post*. When these newspapers began publishing the documents, the federal government sought an injunction to prevent them from publishing more of them. The issue in the case was whether the government can impose a prior restraint on publication to prevent the disclosure of information allegedly harmful to national security.

Federal courts of appeals in New York and the District of Columbia took opposite stances on the question. Only four days after the oral arguments, the U.S. Supreme Court handed down an opinion to resolve the conflict. The Court said the govern-

ment had not met its burden of showing that the circumstances posed a grave enough threat to justify the prior restraint.

More recently, however, a district court in Wisconsin issued a preliminary injunction prohibiting *The Progressive* magazine from printing an article that includes technical information and sketches that show how to construct a hydrogen bomb. The court's rationale was that publication would escalate nuclear proliferation and be a "grave, direct, immediate, and irreparable injury" to the national security of the United States. *The Progressive* countered by saying that all of the facts in the article came either from public sources or from information declassified by the government, and therefore its article could not damage national security.

The case, however, was never tried on its merits. As a result of much adverse publicity, widespread belief that the material would not create a risk to national security, and publication of a detailed account of construction of a hydrogen bomb by a Madison, Wisconsin, newspaper, the government dropped its suit.

The tension between the press and governmental units is not alleviated by the media's proven ability to find out information that is supposed to be confidential. As reporters creatively nibble away at the barriers protecting information, the press continues to antagonize various interest groups within society—including the judges themselves.

In 1978, the *Virginian Pilot*, a Norfolk, Virginia, newspaper, published information it had received about confidential proceedings before the Virginia Judicial Inquiry and Review Commission. Publication allegedly violated a Virginia statute that imposed criminal sanctions for breach of confidentiality. A local court fined Landmark Communications, the company that publishes the *Virginian Pilot*, $500 for printing the information. On appeal, Landmark argued that it had not received the information by any illegal means, and that the report, in fact, was accurate.

In *Landmark Communications* v. *Virginia*, 98 S. Ct. 1535 (1978), the Supreme Court sided with the publisher and said that the publication was in the public interest. The Court did not, however, invalidate the statute entirely. The Court left open the question of whether or not the statute could apply to someone who secures information by illegal means and then divulges it.

In short, the Supreme Court continues to find prior restraint of the press unacceptable. Attempts to convince the Court to agree that obtaining information is equally important to a free press, however, have had little success.

*Access to information.* Closing criminal court proceedings at any stage is a matter of consequence to the media, which have assumed the role of the watchdog of the courts and of the justice system for the public. Representatives of the media argue that a trial itself—if one occurs at all—is but one stage of any criminal proceeding. About 85 percent of all criminal charges are resolved by guilty pleas entered before trial, generally after pretrial hearings have been held on motions to suppress evidence.

Representatives of the media point out that pretrial hearings bring to light police errors or violations of defendants' rights. When pretrial hearings are closed to the media, the public's right of access to information about the operations of the criminal justice system may be infringed. Because of the perishable nature of news, the media may never report and the public may never know what happened.

Soon after the *Nebraska Press Association* v. *Stuart* decision described above, the Gannett Company, the owner of a large group of newspapers, found itself embroiled in litigation on the question of closure of pretrial hearings. The case involving *Gannett* began in July 1976, when a Rochester, New York, man disappeared during a fishing trip he took with two other men. The authorities suspected murder. Witnesses had observed two men driving off in the victim's car. Their fishing boat was found later, laced with bullet holes, but no body was discovered. Two men and a woman were arrested, indicted, and arraigned.

Two Rochester newspapers owned by the Gannett Company carried stories about the alleged crime and about the preliminary criminal proceedings. But between the arraignment in early August and a pretrial hearing in early November, no articles concerning the missing man were published.

At the pretrial hearing, defense attorneys presented motions to suppress statements by the defendants to the police and physical evidence (including a gun) seized after the arrest. They also argued that an unabated buildup of adverse publicity had already interfered with the ability of the defendants to receive a fair trial and requested that the public and press be excluded from the pretrial hearing. The district attorney did not oppose the motion to close the hearing, and the judge granted the request. A reporter employed by Gannett to cover the case was required to leave the courtroom. On the following day, she requested a transcript of the hearing. Her request was refused. (This contrasts with the Nebraska case, in which reporters sat in on the hearing but were prohibited from disclosing what they had heard.)

Gannett tested the closing of the hearing through appeals all the way to the Supreme Court, which, in July 1979, announced, in *Gannett* v. *DePasquale*, 99 S. Ct. 2898 (1979), that the Constitution does not give reporters "an affirmative right of access to the pretrial proceedings." In fact, a majority said, the Sixth Amendment guarantee of a "public trial" is for the benefit of the defendant alone, and members of the public, as distinct from the parties in the litigation, do not have an enforceable right to insist that a trial be public.

The press had put its foot into a bear trap in *Gannett*, and it expressed its agony in text and cartoons. As a result of *Gannett*, judges have begun closing more pretrial hearings and trial proceedings, too.

Another case involving access to information is *Houchins* v. *KQED*, 438 U.S. 1 (1978). When an inmate committed suicide in the Alameda County jail in Santa Rita, California, in 1975, KQED, a radio and television broadcaster, requested permission to inspect and photograph the portion of the jail where the suicide reportedly had occurred and where conditions, it was asserted, were responsible for prisoners' problems. The sheriff refused permission.

Shortly thereafter, however, Sheriff Houchins announced a program of

*"So what if the First Amendment does go? We still have twenty-five more."*

Drawing by Dana Fradon; © 1979 The New Yorker Magazine, Inc.

monthly tours of the facility for the public and the media on a first-come, first-served basis. The tours were quickly booked. The few reporters who were able to gain access to the prison were prohibited from interviewing inmates by tour regulations. In addition, the tour routes did not include the area where the suicide had occurred. KQED was not satisfied.

At issue was access to information. Representatives of the media, quite logically, argued that the freedom of the press is substantially weakened if the right of the press to gather information is not recognized. But the Supreme Court did not agree in *Houchins*. In his decision, Chief Justice Warren Burger denied that access to information was a constitutional right. He wrote that it was "not essential to the guarantee of the freedom to communicate or publish." He said that the press was trying to gain a special privilege above that of the public in wishing to interview inmates or to see restricted areas of the prison.

*Use of Cameras and Broadcast Equipment in the Courtroom.* A subject that the High Court has not touched recently involves the use of cameras and broadcasting equipment in the courtroom. In federal courts and in most state courts, broadcast and photographic coverage of proceedings—jury selection, hearings, and the trials themselves—is prohibited. An increasing number of states, however, have lifted this ban, and many others are considering lifting it because modern equipment is not highly disruptive of proceedings.

The prohibition on such equipment in the courtroom dates back to the 1935 trial of Bruno Hauptmann for the murder of Charles Lindbergh's baby—State v. Hauptmann (N.J. 1935) 180 Atl.809. Hauptmann's trial attracted so much attention from the media that the courtroom had a circus atmosphere. Widespread criticism resulted, and judges reacted by limiting trial coverage.

The ban was codified as a result of the 1965 trial of Billie Sol Estes, who was the object of widespread media attention because he was closely identified with then-President Lyndon B. Johnson. Broadcast media and still photographers were allowed in the Texas courtroom to cover proceedings. Estes was found guilty of swindling farmers into purchasing fertilizer tanks.

On appeal, Estes claimed that the decision to open the trial to the media deprived him of his right to fair trial. The state contended that televising portions of the trial did not deny him due process, since Estes could show no specific prejudice that resulted from the coverage. Furthermore, the state argued that the court has no power to edit or censor events and that televising criminal trials enlightens the public and promotes greater respect for the courts. The controversy reached the Supreme Court in *Estes* v. *Texas*, 381 U.S. 532 (1965).

A closely divided Court found for Estes. Justice Tom C. Clark's majority opinion pointed out that in a preliminary hearing "at least 12 cameramen were engaged in the courtroom . . . cables and wires were snaked across the courtroom floor, three microphones were on the judge's bench and others were beamed at the jury box and counsel table."

The Court pointed out that the Sixth Amendment specifies that trials are to be public in order to prohibit such abuses as occurred under the Spanish Inquisition and the English Star Chamber—not to make them spectacles. As long as representatives of the media (including television) are present and free to report, Justice Clark argued, the public isn't being deprived of its right to know. He concluded that televising the trial had violated the due process guarantee and prevented a "sober search for the truth."

Estes' conviction was overturned, and in response, state court rules and federal judicial canons of ethics have since codified the ban on broadcast and photographic coverage.

An interesting exception is Colorado. Instead of prohibiting all cameras in the courtroom, Colorado developed guidelines that allow state judges to regulate the way in which cameras are used in their courtrooms. As a result, cameras have been in Colorado courtrooms since 1956.

The electronic media repeatedly point out Colorado's success in allowing broadcast media access to court proceedings without vitiating those proceedings. They argue also that the equipment in use today is far more sophisticated than that of the sixties, and thus is less likely to disrupt the trial process. A third argument of the media is that much of the public receives its information solely from radio and television news. As a result of the media's persuasion, 20 states have changed their rules to allow television coverage and still photography in courtrooms since 1975. Federal rules still prohibit cameras in all federal courtrooms, including the U.S. Supreme Court, however.

*Search and Seizure, Subpoenas, and the Confidentiality of Sources.* The economic and spiritual heart of the news business is getting information that others do not have. A photographer for the *Stanford Daily*, the student newspaper at Stanford Universi-

ty, found himself embroiled in controversy as a result of his zealous approach to a 1971 assignment.

During a student demonstration at the university hospital, the photographer stationed himself outside a barricaded corridor near a detachment of police. The demonstrators broke through a door to escape police coming from the other end of the corridor, and the photographer took pictures of them assaulting police with sticks and clubs. The next day, the *Stanford Daily* published his photos. Immediately the district attorney decided that he wanted to see any photos that had not been published and the negatives of all the pictures taken during the confrontation. He obtained a search warrant, and four policemen rummaged through the *Stanford Daily's* files, photographic laboratory, desks, and wastepaper baskets. The searchers found only the photos that had been printed, and they removed nothing.

A furious press decried the district attorney's action, citing its Fourth Amendment right to be free from unreasonable searches. The press also argued that during such searches police might find materials that contain information about confidential sources. The result, it said, would be that the media would be unable to guarantee confidentiality, important sources of information would dry up, and the media would be prevented from finding out about corruption and crime. Thus, it would be unable to fulfill its function of informing society, a function the First Amendment guarantees.

Newspapers and broadcasters have yet another concern. Of the 15 search warrants issued for newsroom searches between 1971 and 1978, six involved alternative papers or radio stations. None involved a big-city daily. The press has concluded that district attorneys are more likely to take on small papers and stations that may not be able to afford lengthy court battles than to take on wealthy foes who have the money to fight court battles and who also have the ear of the public.

The Supreme Court's response to the *Stanford Daily* case shocked some publishers and broadcasters. In *Zurcher* v. *Stanford Daily*, 436 U.S. 547 (1978), Justice Byron R. White, writing for the majority, said—

> Under existing law, valid warrants may be issued to search *any* property, whether or not occupied by a third party [such as a newsroom], at which there is probable cause to believe that fruits, instrumentalities, or evidence of a crime will be found. Nothing on the face of the Amendment suggests that a third-party search warrant should not normally issue.

In a dissent tinged with sarcasm, Justice Potter Stewart said—

> It requires no blind leap of faith to understand that a person who gives information to a journalist only on condition that his identity will not be revealed will be less likely to give that information if he knows that, despite the journalist's assurance, his identity may in fact be disclosed. And it cannot be denied that confidential information may be exposed to the eyes of police officers who execute a search warrant by rummaging through the files, cabinets, desks and wastebaskets of a newsroom. Since the indisputable effect of such searches will thus be to prevent a newsman from being able to promise confidentiality to his potential sources, it seems obvious to me that a journalist's access to information, and thus the public's, will thereby be impaired.

The media's failure in this case to win Supreme Court recognition of the need to protect confidential sources follows an unenviable record on the issue, beginning with *Branzburg* v. *Hayes*, 408 U.S. 665 (1972).

In 1969, a reporter named Paul Branzburg wrote an article describing in detail how two persons, in flagrant violation of state drug laws, synthesized hashish from marijuana. The reporter subsequently was subpoenaed to testify before a grand jury.

He appeared but refused to identify the two persons. A state trial judge ordered Branzburg to answer the grand jury's questions, and an appeal to a higher state court affirmed the judge's order.

While the question of whether Branzburg would identify his sources for the 1969 article was still on appeal in 1971, Branzburg published a detailed story about the drug scene in Frankfort, Kentucky. Again he was called before a county grand jury to answer questions about the violations of the drug statutes he had observed. When state courts denied his motion to quash the subpoena, Branzburg asked the Supreme Court to review both orders to testify.

In a five-to-four decision, with many separate opinions, the Court concluded that the First Amendment does not relieve a newspaper reporter of the obligation that all citizens have to respond to a grand jury subpoena and answer questions relevant to a criminal investigation. The case is a difficult one because the reporter was an eyewitness to crimes, not just an interviewer of witnesses, and this may have tipped the vote against him.

But the decision is law. As a result, reporters, if subpoenaed, must testify in grand jury proceedings about their sources. In late 1978, the Reporters Committee for Freedom of the Press reported that new cases involving subpoenas of reporters are coming in at the rate of 100 to 125 a year.

Another instance in which a reporter failed to convince the courts of his need to protect confidential sources involved Myron Farber, a reporter for the *New York Times*. During the summer of 1978, Farber refused to reveal the identity of a confidential source he had used for a series of articles that called attention to the suspicious deaths of three persons in a New Jersey hospital. These articles led to the indictment of Dr. Mario Jascalevich for murder. Farber's refusal to answer certain questions at Jascalevich's trial and the *Times'* and Farber's refusal to turn over notes involving confidential sources' identities led to a contempt of court citation and 40 days in jail for Farber. The *New York Times* paid out $285,000 in fines. Dr. Jascalevich eventually was acquitted without gaining access to the notes and drafts of Farber's upcoming book on the hospital deaths.

The bleak record of the media on issues of access, search and seizure, and confidentiality of sources does not mean that they do not have supporters on the bench. On the Supreme Court level, for example, some Justices have written vigorous pro-media dissents in *Branzburg, Gannett, Houchins,* and *Zurcher.*

*Libel Laws.* An intense debate has been waged over the issue of responsibility for harm caused by errors in material that has been published or broadcast. Supreme Court justices have been vehement on both sides of the liability questions. Some cases have been decided in favor of the media.

Recent cases have not.

The print and broadcast media churn out millions of items daily. The pressures of time often make careful research or review impossible, and, therefore, inevitably the press makes some mistakes. Some are inconsequential. But others are defamatory, that is, they harm someone's reputation or hold him or her up to ridicule.

Under the common law developed by the courts, no libel of any kind was constitutionally protected. In 1964, however, the media won a major concession when the Supreme Court ruled in *New York Times* v. *Sullivan*, 376 U.S. 254 (1964), that a "public official" must show that the media published the story with "actual malice" (that is, knowledge that the statements were false or reckless disregard of whether they were false or not). This made the proof requirement very difficult to meet.

A few years later another case, *Gertz* v. *Welch*, 418 U.S. 323 (1974), extended the protective cloak over the media for errors made concerning "public figures." Subsequent litigation has haggled over who are "public figures" and how to go about proving "actual malice." Three major decisions in the last two years have pulled back the media's shielding mantle.

Is a society matron a "public figure"? No, the court said in *Time* v. *Firestone*, 424 U.S. 448 (1976). Mrs. Russell Firestone brought a libel suit against *Time* magazine for incorrectly reporting that her husband had been granted a divorce from her on the grounds of extreme cruelty and adultery. *Time* magazine appealed a $500,000 judgment in her favor, arguing that Mrs. Firestone, whose name appeared frequently in society columns, should have had to show "actual malice" under the *New York Times* test in order to prove libel.

The Supreme Court disagreed. They said Mrs. Firestone was not a "public figure" since she had not assumed ". . . any role of special prominence in the affairs of society, other than perhaps Palm Beach society, and she did not thrust herself to the forefront of any particular public controversy in order to influence it."

Justice Brennan's pro-media dissent was based on his concern for the maintenance and well-being of the system of free expression. He said, "Although calculated falsehood is no part of the expression protected by the central meaning of the First Amendment . . . error and misstatement is [sic] recognized as inevitable in any scheme of truly free expression and debate." This echoes his opinion in *New York Times* v. *Sullivan*, in which he declared for a unanimous Court that there is a "profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide open. . . ."

Is the recipient of a government grant a "public figure"? No, the Court said in *Hutchinson* v. *Proxmire*, 99 S. Ct. 2675 (1979). Ronald Hutchinson brought a libel suit against Senator William Proxmire for announcing in a newsletter and a letter to constituents that Proxmire had awarded his "Golden Fleece of the Month Award" to Hutchinson. Hutchinson had received a federal grant to study behavior patterns of certain animals in order better to understand aggression in humans. Hutchinson argued that Proxmire's statements ridiculed both the project and Hutchinson himself. Although a lower court thought he was a "public figure" because his award had been reported in the local news media, the Supreme Court said that Hutchinson did not have the quality of access to the media that is ". . . one of the accoutrements of having become a public figure."

Can a plaintiff inquire into an editor's state of mind in order to prove "actual malice"? Yes, the Court said in *Herbert* v. *Lando*, 99 S. Ct. 1635 (1979). In late 1969, Anthony Herbert accused the government of a cover-up of Vietnam war crimes and atrocities. In 1973, CBS's *60 Minutes* examined Herbert's charges and why he made them. Herbert's motives were questioned during the program.

Subsequently, Herbert sued CBS, program narrator Mike Wallace, and *60 Minutes* producer-editor Barry Lando. Herbert said that the program falsely and maliciously portrayed him as a liar. Because of all the media coverage he had sought and received, no one contended that Herbert was not a "public figure." So, in seeking to establish that there had been "actual malice," Herbert tried to compel Lando to answer questions during a deposition about Lando's state of mind at the time he was working on the Herbert story. Lando refused to answer, on the ground that the First Amendment protects against inquiry into either the state of mind of those who edit, produce, or publish or the editorial process itself.

The Supreme Court didn't buy the argument. It said to do so would create a new privilege for the media. Furthermore, the Court reasoned that an inquiry into the editorial processes of those responsible for the publication or broadcast of information is necessarily relevant when the news writers and editors rely on the want-of-malice shield provided by *New York Times* v. *Sullivan*. The inquiry into state of mind is intended to produce evidence needed to prove a critical element of the plaintiff's cause of action.

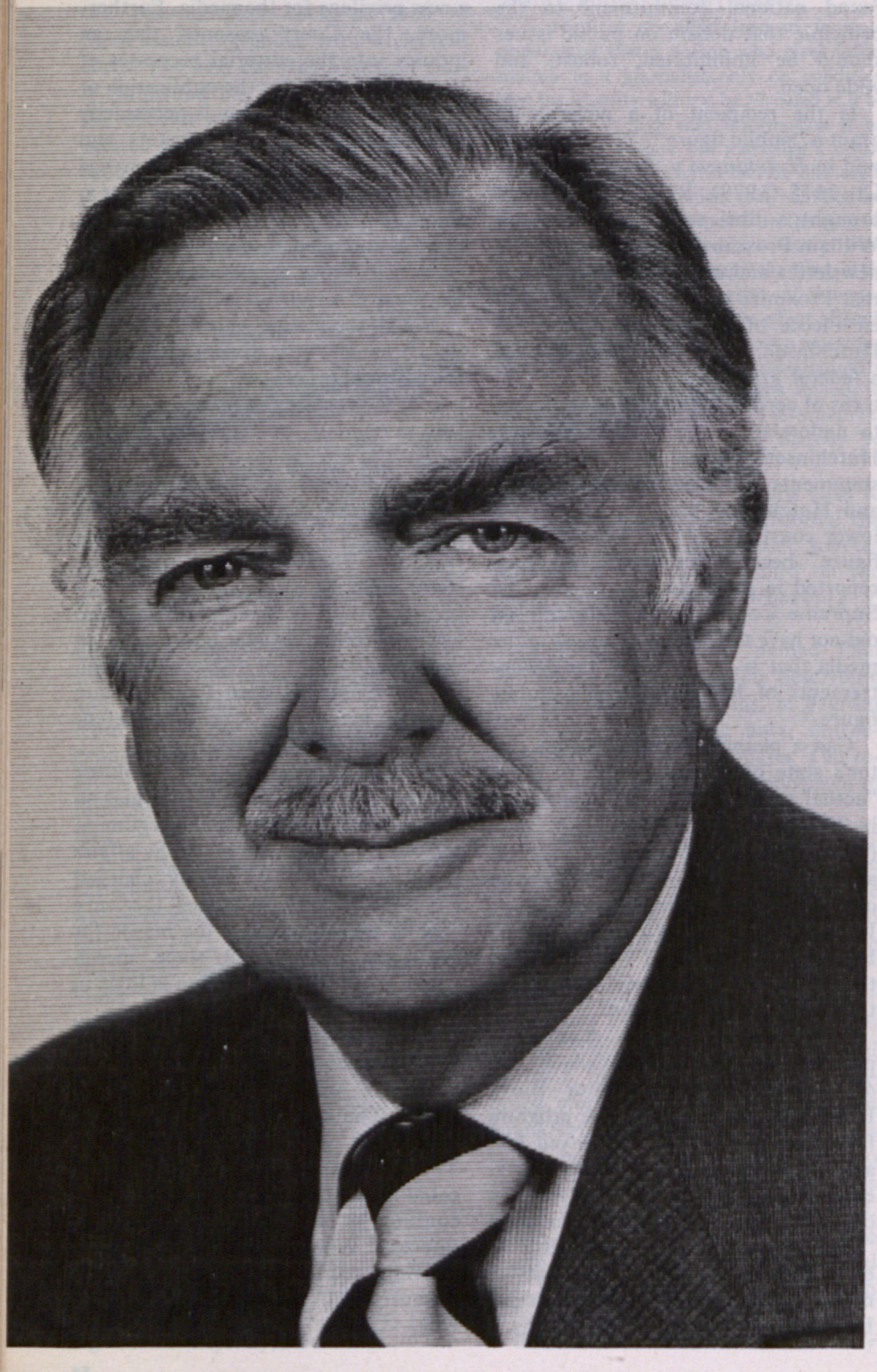
Not all the justices agreed. Said Justice Brennan, in a dissent, "Through the editorial process expression is composed; to regulate the process is therefore to regulate the expression."

Broadcasters and publishers take the stance that the First Amendment's guarantee of a free press is an absolute freedom. They reject the idea that there must be a "balancing" or "accommodation" between that guarantee and such other societal interests as an individual's right of redress for libel, the government's need to investigate criminal activity, or a criminal defendant's right to a fair trial.

Why should this right be absolute? Former Justice William O. Douglas on one occasion summed up the argument this way: "Discussion of public affairs is often marked by highly charged emotions. . . . It is indeed this very type of speech which is the reason for the First Amendment since speech which arouses little emotion is little in need of protection."

However, Justices Black and Douglas, who were adamant and vocal on the point, are no longer on the Supreme Court. The composition of the Court affects the outcome of the decisions. The present bench has clearly indicated that competing interests will continue to be balanced against media interests. Whether the scales of justice are weighted for or against the media's interests will be for history to decide. □

# WALTER CRONKITE



*Recently the Supreme Court of the United States and the press have been engaged in hand-to-hand combat. The battleground is the previously sacrosanct First Amendment. In an exclusive interview, Walter M. Perkins, an assistant staff director of the American Bar Association's Special Committee on Youth Education for Citizenship, interviewed one of the country's most eminent newsmen, CBS News Correspondent Walter Cronkite, about his views concerning the current conflict between the Court and the press.*

**Mr. Cronkite, what are some of the major reasons for the press's present disaffection with the Burger Court?**

Well, the evidence is overwhelming that over the last two to three years the Court's majority has taken a very restrictive view of freedom of the press. It believes that the press does not have any special privilege, not even as representatives of the people, to cover events. It also believes that the press does not have any special privilege to protect its sources, which is fundamental to the practice of free journalism; that it does not necessarily have to have access to public events; and that, in the case of broadcasting, it does not even have the protection of the First Amendment because of a rather strange "Catch-22" doctrine. Because broadcasting is a government-regulated business, the Court says, First Amendment rights do not apply to us.

**In a recent speech before the San Diego Chamber of Commerce, you described a free press as the central nervous system of a democratic society. Could you expand on this concept somewhat?**

I do not know of any means other than a free press by which the public can be kept advised of the nature of the government's decisions. If the press is not free to present its views of what is happening in government without any

# AND THE SUPREME COURT

restriction whatsoever, then the people have no way of knowing and so no way of exercising their franchise intelligently. If that happens, the entire body politic comes to a halt, just as if the spinal column and all the nerves that are appended thereto had been severed.

This is a government by and for the people, and it can't be by the people if the people don't know what's being done in their name.

**Do you interpret the press clause in the First Amendment to mean that the press has greater First Amendment rights than the general public?**

No, I don't believe that it does. In covering the news and in publishing the news, the press is the public's surrogate—and is the general public in this sense.

The public clearly cannot troop through every jail or every government office. The public cannot go to the county court and paw through all of the probate files. It would be wonderful if everyone could go through the jails. That's the way it ought to be. Then we would be sure that everyone would get his or her own impression and not have to see it through a second person's eyes. But that is impossible. This is why the press needs a special privilege. The press is the public's agent for doing these things.

**Are there ever any instances where the press's First Amendment rights should be preempted? I'm thinking particularly of areas involving national security.**

Of course we have to consider the problem of national security. And I'll go further and say we've got to consider the rights of a defendant in a trial. Some absolutists in the press claim that the press should publish everything that crosses its desk. This is the easy way out. At one time in the past, even I claimed that, but I've come to a little bit different decision on it.

There are cases involving national security where the press has to consider the adverse national and international impact that publishing a story might have. Deciding whether or not to publish such a story raises difficult questions, but government edict or court decision should not be used to constrain the press in making its decision.

**In instances where the government alleges that printing a story will adversely affect national security, how can the press best determine whether the government's assertion is valid?**

It's just going to have to do it by intelligence, by its own information—what it knows about the story, what it knows about the people who are trying to put clamps on that story. These decisions are not easy. But they should be the press's, not someone else's.

You see, I believe that the press in this country is not a special interest press. I can't say that for the rest of the world. In many countries, political parties or religious groups or some other special interest groups own newspapers. In this country, we're blessed with a truly free press, free from the sort of ideological pressure the press in many other countries is under. Our press has no special interest at any time in protecting anyone, any particular ideology, or any political party.

We are free of the special-interest limitations that anyone else involved in the story is encumbered with. Therefore, we are the only people who are able to make a clear judgment that some information should or should not be published.

**Let's get into specifics. Several recent cases have had serious implications for the working press because they affect its First Amendment rights. In *Gannett* v. *DePasquale*, the Burger Court held that where it appears that pretrial publicity will prejudice the fairness of the trial, the press may be excluded from the pretrial hearing. How does this decision affect the press in fulfilling its news-gathering and information-dissemination functions?**

The press has a grave responsibility to avoid any action that is going to damage an individual's reputation or freedom in any way. Reputation and freedom are precious to everyone.

Let me mention the *triage* system that French medicos had to adopt during World War I. So many seriously wounded people were being brought back from the great battles that the medical men could not treat them all. They had to adopt the terrible policy of triage, meaning that the doctors did not treat the more seriously wounded—leaving them probably to die—until they could treat those who had a greater chance of recovering.

In a conflict of rights of a free press with rights of a fair trial, it seems to me that we must opt for the greater good of the greater number, rather than for the greater good of one individual. And the greater good of the greater number is an assurance that our court procedures are fair, honest, and clean. This we cannot be assured of if we get into a policy—which the Supreme Court seems to have dictated and more and more courts are following—of closing court proceedings.

With closed proceedings, how are we protected against corrupt judges or against a corrupt law enforcement machine? We're not. Therefore, I say that we have to opt for the rights of a free press rather than the right of the individual to a fair trial.

Having said that, however, let me also say that I don't think that conflict between these two rights exists in many cases. Very few cases involving an apparent conflict between these two rights could not be solved by an intelligent application of the law by a judge who is more willing to try to find a compromise than he is to say, "Hey, look, I've now got a means to shut out the press and get rid of these annoying fellows and do my business in the privacy and sanctity of my chambers."

Most of these cases don't really pose as severe a conflict as the judges and the prosecutors and sometimes the defense lawyers suggest.

**Do you think the *Gannett* decision will be expanded to include trials themselves?**

Yes. Incidentally, I'm in favor of excluding the press completely from trials, but only as long as cameras record them. I think that the press can be a disturbing influence in a big trial that has attracted world attention. You've got literally hundreds of reporters seeking seats, and you have the turmoil of correspondents' leaving and the clamor of their coming back into the courtroom, and this sort of thing. It's very disturbing.

But you don't have to do that any more. If every trial were covered with closed-circuit cameras, the public wouldn't have to be present at all; they would be there through the camera. By closing the courtroom I do not mean to ever close proceedings.

**If such a procedure were instituted, would the cost of conducting trials be substantially increased?**

No, probably it would be decreased. The courts would need fewer marshals, and the cost of manpower is one of the highest costs today.

**Mr. Cronkite, how far does the public's right to know extend? Is it unlimited?**

I think it is. Absolutely. This does not mean that we don't have to use discretion in a lot of our affairs. In international politics, officials may have to make decisions behind closed doors that we cannot broadcast immediately. In stating the principle, however, we've got to say the public has an unlimited right to know.

**In the *Zurcher* v. *Stanford Daily* decision, the Supreme Court stated that police have the right to conduct surprise raids and searches in newsrooms to look for information about crimes. As a working newsman concerned about confidentiality of news sources, how do you view this decision?**

As potentially disastrous! The problem with the decision is that it goes to the right of people to be secure in their homes and their offices, to their right to have their papers secure against unreasonable search and seizure.

In the past, searches were always directed toward the recovery of evidence on the basis of a reasonable belief that an individual had in his or her possession contraband or evidence of some kind. Now, in the *Stanford Daily* case, the Court has said the government can come in and paw through a reporter's records to discover whether he has any information that might be incriminating not only to him, himself, but to somebody else.

This doctrine is dangerous not only for the press, but for doctors, lawyers, priests, bookkeepers, and auditors. This permits, it seems to me, beyond anything we've ever known in our history, suspicious government agents' probing into the privacy of Americans. It certainly is dangerous to the press itself, because the press will not be able to protect its sources.

In many places, a search warrant can be obtained through a justice of the peace, who is often appointed by the local government. Well, if the local government is corrupt, and the newspaper is investigating the corruption in the government, then the district attorney or the mayor or anyone can get a search warrant and go into the newspaper files and tear them apart looking for the newspaper's sources of information that could bring down the machine.

**What effect would the *Stanford* case have had if it had been decided prior to the Watergate disclosures?**

Well, obviously we don't know, but we can certainly imagine that the federal government could have gone into the files of the *New York Times* or the *Washington Post* or anyone else to find out who the sources who were leaking the story were. Then, by whatever action it chose, the government could have exercised prior restraint on the newspaper to prevent publication of the story.

**Prior restraint is one area involved with the press that the Burger Court has more or less left alone. Do you see any indication . . .**

Well, they haven't left it alone. I think they've dealt with prior restraint through other means, as I've suggested.

**That's what I was trying to get at. Are you suggesting that in effect in cases like *Zurcher*, which was not decided on grounds of prior restraint, prior restraint was the main issue?**

Anything that limits the ability of the press to cover a story involves prior restraint; anything that says the press can't go somewhere to cover a story involves prior restraint. Take the case involving a jail in Alameda County, California: *Houchins* v. *KQED*. While I am not familiar with the jail and what was going on there, I do know that a judicial commission had said that the conditions at the jail were terrible; that a suicide had taken place at the jail, and that KQED, a radio and television station, wanted to inspect the jail to do a story about it. The station wanted to go take a look at the conditions.

Well, the sheriff wouldn't permit the station to go into the jail and take a look. Then, later, the sheriff allowed monthly tours of the facility for the public and the media. The tours were booked quickly, and few reporters got into the jail. No one was permitted in the area where the suicide supposedly took place. KQED went to court. They lost their case. Preventing KQED access to the jail in the way the sheriff did involves prior restraint.

**Mr. Cronkite, when you first began your career as a newsman, did you foresee that there would come a time when reporters would be serving time in jail for refusing to divulge news sources?**

Oh, I don't know if I actually foresaw that, but after all, I had read my U.S. history and knew that there had been periods of assault on the press from time to time, starting with John Peter Zenger. I guess that from time to time newspapermen and women are likely to get into trouble with public officials. I never really contemplated that the present Supreme Court of the United States would be so consistently, in its majority at any rate, against press freedom.

**Given the maxim that what Congress gives it can take away, is legislation the solution for any of the issues we have been discussing?**

It worries me that we should try to get relief through federal legislative action. In the *Stanford Daily* case, which deals with the Fourth Amendment, I think legislative relief is in the works. That's coming. But as for the First Amendment itself, I'm very worried about Congress' taking any action on First Amendment rights. The First Amendment says, "Congress shall

make no law . . . abridging the freedom of speech, or of the press. . . ." Well, legislation that some friends of the press have suggested writes in restrictions as well as restates the First Amendment. Restating the First Amendment hardly seems to be necessary.

Moreover, altering the present wording would require proposing a constitutional amendment. That, I'm afraid, would be terribly dangerous, because all sorts of pressure groups would like to see the press's freedoms restricted in one way or another. So I'm not very confident that we could find any relief in such action.

**In libel cases, the plaintiff may now inquire into the very thought processes of journalists, according to the Supreme Court in *Herbert* v. *Lando*. Does this decision constitute the chilling effect on the press's First Amendment rights that the media have been continually concerned about?**

Possibly. I have a little more trouble simply opposing that decision than I do most of the others. The reason is that I'm not entirely clear as to what the Supreme Court really means by it. I think that we're going to have to have some tests to determine just how broad that decision is.

I can see a problem, you see, in a libel action. It seems to me that the claimant in a libel action faces a legitimate problem. How can he or she determine whether a newspaper or TV station made its report out of malice? How can the claimant do that without trying to explore what the press's thinking was? I don't know.

Libel is an area where sources do become a key to the action itself. Well, I believe that the press has to be protected in not revealing its sources. But how can people who believe they have been libeled get at the facts unless they find out where the reporter got the story in the first place?

So there is a problem here. However, we get down again to triage, and we get down to what right has priority. If the Supreme Court decision says every word spoken in an editorial conference before a story is broadcast or published can be entered into evidence in a libel case, this has a severely chilling effect on the press.

Newspapermen and women are kind of hyper and skeptical, as they should be. Skepticism is the key to being a good news reporter. Unless a reporter says, "Wait a minute; prove it to me," he or she is not a good reporter. So, it's not at all unlikely that at an editorial conference on a forthcoming story about malfeasance by a government official, somebody is going to say, "The son-of-a-gun is lying, you know that. Why, he always lies. He's never told us the truth yet."

The editors are not going to print in the paper that the official lies a lot, but if that's his reputation among news people in the community, that's going to influence their attitude toward the story. They will double-check and triple-check everything he says.

Well, suppose a report of that conference goes before a court as evidence in a libel case? It's going to look like there's malice. It's not malice; it's just facing the facts as the press understands them. But if that kind of thing becomes a part of the evidence allowed in a libel action, we're not going to be able to speak frankly in editorial conferences anymore.

If we have to guard every word we say in the advance preparation of a news broadcast or a newspaper article, it will have a chilling effect on what we do. It's a serious restriction on our freedom to discuss and debate the news today.

**What is the press doing to counteract some of the effects of some of the recent Supreme Court decisions?**

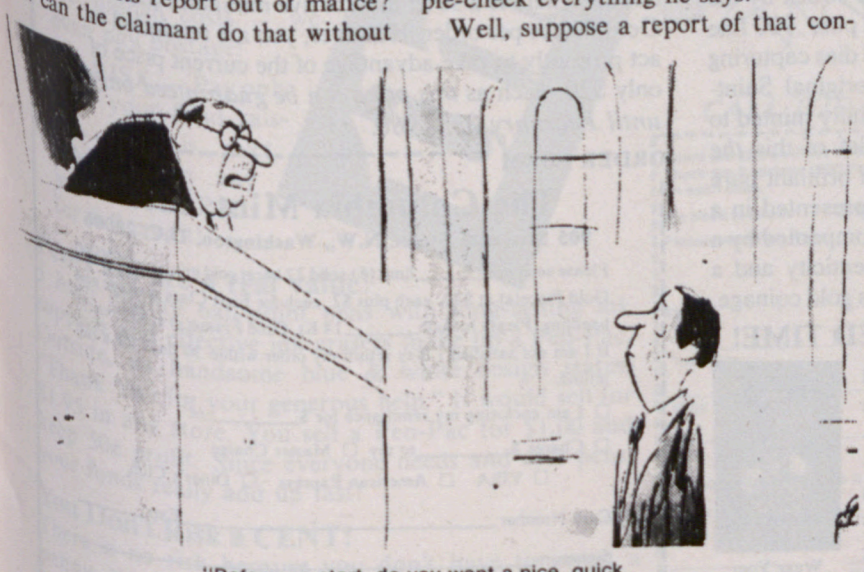
As a group we're organizing to fight each decision, to help support the smaller newspapers and broadcasters who do not have the financial resources to get the best lawyers possible to fight these decisions. We're doing this with fund-raising in several organizations. Sigma Delta Chi [society of professional journalists] and the American Newspaper Publishers Association are involved in this effort. We have a special committee, which I think is really becoming the umbrella organization for all of this, the Reporters' Committee for Freedom of the Press.

**One final question: Are there any other areas in the court/free press conflict that you would like to say something about?**

Well, only in reference to the responsibility of the press. We have to stand up and fight for our rights and the people's rights. It should be, I think, constantly kept in mind that the press is not asking for special privileges for itself in order to benefit itself in any way.

The special privileges that I think we are entitled to are the special privileges of being the people's surrogate, so that the people know what is being done in their name. But that also gives us a special responsibility to be fair and truthful, to adhere to the highest ethics of the profession of journalism.

There's no way that I know of that the government can tamper with or in any way try to impose controls upon freedom of speech or of the press without considerably diminishing these freedoms and destroying their whole concepts. □



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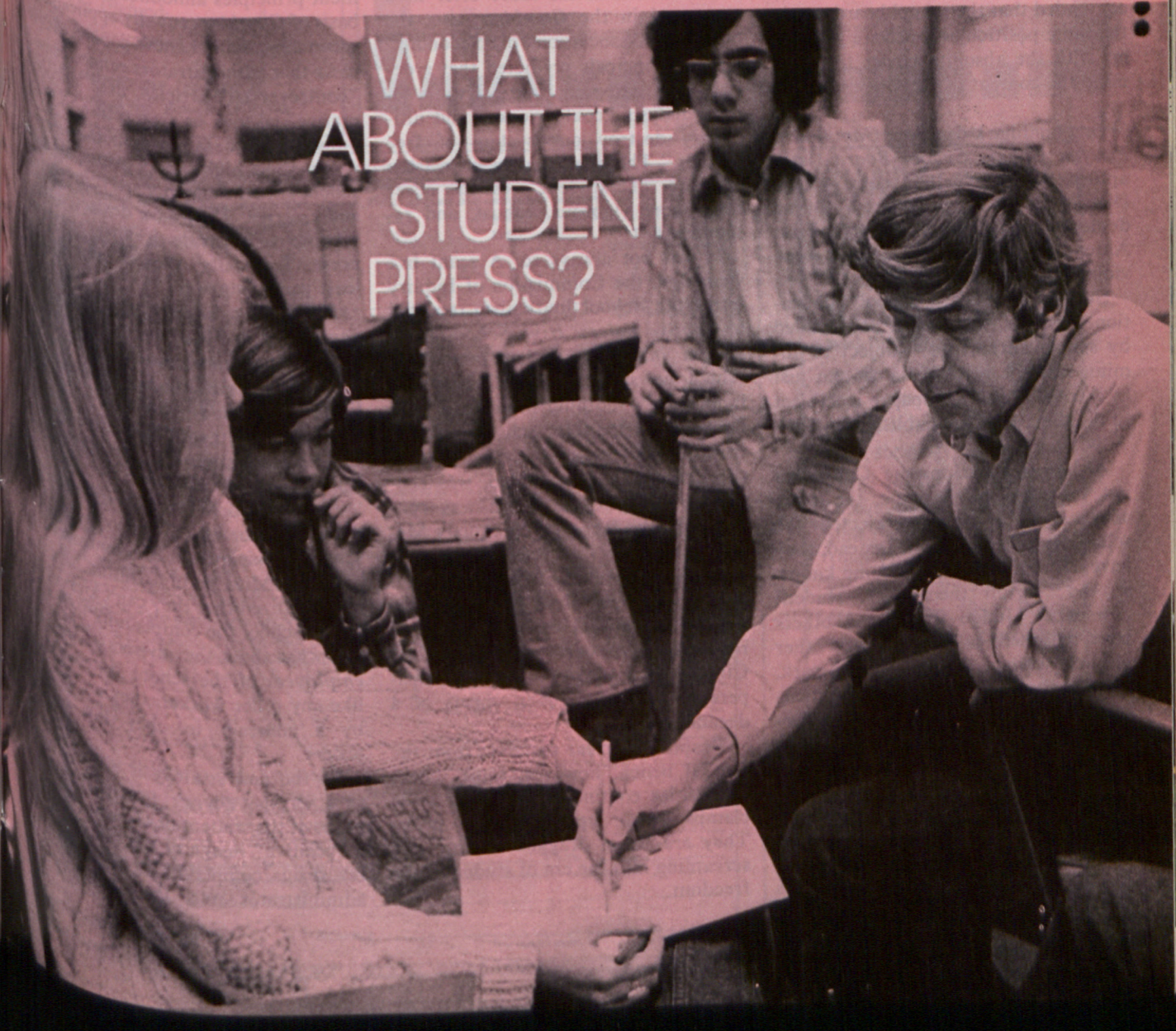

Gina Gambino didn't *want* to sue her principal and school board, she didn't even know where the federal courthouse was. But it was the principle of the thing—a vital principle: the First Amendment.

Gina Gambino and Lauren Boyd were the editors of their school paper, *The Farm News*, at Hayfield High School in Fairfax County, Virginia. They had conducted an informal survey of students in their school that revealed that many of them were sexually active but failed to use any means of birth control. The two decided to publish an article describing the various methods of contraception.

When Doris Torrice, the Hayfield principal, heard about the planned article, she told the editors not to print it. Torrice feared—with good reason—that the piece might offend members of the community. Any teacher who has answered calls from irate parents can sympathize.

Moreover, the school board had recently adopted a policy prohibiting teaching about birth control in any class—including, strangely enough, the sex education classes. The proposed article, Torrice said, violated that policy.

Undaunted, the two editors took their case to the school board. After all, just the year before the board had awarded *The Farm News* a Certificate of Excellence for publishing an article describing the dangers of venereal disease and methods of preventing it.

But times change. Without stating reasons for its decision, the board voted six to four to prohibit publication of the article on birth control.

At this point, less courageous students would have yielded (no one undertakes litigation lightly); but in their civics classes the two had been taught that the First Amendment means what it says. So despite the danger of retaliation, despite the time and expense involved, they determined to make a case of it.

They sued the principal, the superintendent of schools, and the 10 members of the Fairfax County

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By MICHAEL D. SIMPSON
*Director, Student Press Law Center, Washington, DC.*

School Board. And it was quite a case that they made. (They were represented by an attorney who was on the staff of the Student Press Law Center.)

The competing arguments were fairly simple. The plaintiffs claimed that the First Amendment protected their efforts to write responsibly about the problems of teenage pregnancy. The defendants argued that the newspaper was subject to administrative control because it was an in-house publication and a part of the curriculum. The defendants pointed out that some student staff members received academic credit for their work on the newspaper, which was written, edited, and distributed in the school. Moreover, they said, *The Farm News* received over half its budget directly from the school, and the faculty adviser was paid a $1,225 salary supplement for supervising the paper. The defendants contended that the school board was in the same position as a private publisher, with the absolute power to determine the content of "its" newspaper.

In a landmark decision, *Gambino* v. *Fairfax County School Board* (later upheld by an appellate court), U.S. District Court Judge Albert V. Bryan declared that the students' First Amendment rights had indeed been violated.

Surprised? Isn't a school publication—created, sponsored, and funded by school authorities—subject to administrative control of its content just as a commercial newspaper is subject to the dictates of its publisher?

No.

Although the Supreme Court has not yet ruled on the issue, the lower courts have uniformly rejected the school board's argument. Instead, they have adopted what has become known as the "forum theory." A student newspaper, Judge Bryan and others have reasoned, is just like any other publicly owned forum—a city park, civic auditorium, airport—where a citizen is free to express himself or herself in a nondisruptive manner without government censorship.

It does not matter that the "speaker" (or student newspaper editor) is a minor. Kids have rights, too.

There are, of course, exceptions to the forum theory. Student journalists do not have the right to publish material that is libelous, obscene, or substantially disruptive of the school (resulting in a student riot or walkout). A student newspaper that is nothing more than an announcement sheet—that does not carry editorials, feature articles, or letters to the editor—is not a forum and is subject to administrative control. Moreover, students who attend private institutions enjoy no constitutional protection from actions by school authorities.

*Gambino* has become the leading precedent in the fight for a free student press. Within the last year and a half, high school students in urban Philadelphia, suburban New Jersey, and rural North Carolina have won lawsuits against school boards, establishing their right to publish articles about birth control and editorials that contain four-letter words.

In a friend-of-the-court brief filed on appeal in the *Gambino* case, the National Association of Secondary School Principals predicted that a decision that adopted Judge Bryan's forum analysis "could weaken and ultimately destroy our system of free schools." The result has been just the opposite. The student press has never been more vigorous, robust, and responsible.

It was not always so. A scant five years ago, the Commission of Inquiry into High School Journalism reported in *Captive Voices: High School Journalism in America* that most high school newspapers were "trivial and innocuous"—nothing more than public relations tools for school administrators. The cause of such triviality, the Commission concluded, was censorship. (The Commission was convened by the Robert F. Kennedy Memorial.)

But a five-year record of court victories has changed that. No longer are student journalists content merely to report on the senior prom and Beta Club meetings. Most student newspapers are not the gossip sheets of a decade ago.

Despite the clear mandate from the federal bench, however, some school authorities continue to try to put the clamps on an uppity student press. They are being dragged kicking and screaming into the era of student press freedom.

When the editor of the East Carolina University student newspaper published a letter critical of dorm regulations that ended with a four-letter vulgarity referring to the University president, he was not only removed as editor, but also kicked out of school. The author of the letter was told to pack his bags as well. Finding a violation of the First Amendment, a federal court summarily reversed the school's disciplinary actions.

The president of North Carolina Central University took a slightly different approach. He simply cut off all financial support for the school paper after it editorialized in favor of continued segregation of the school. The federal judges intervened once again and ordered the school official to restore funding.

Although these two cases involved college publications, the First Amendment principles announced are, on the basis of *Gambino*, equally applicable to secondary school newspapers. It is clear that administrators cannot censor "controversial" articles, fire "uncooperative" editors, or even refuse to fund "upstart" student newspapers.

But some high school principals and school superintendents are resourceful and creative. They have devised a new scheme to castrate a virile student press. Tragically, they've enjoyed at least partial success.

Bill Downs, adviser of the student newspaper in Hillsdale, New Jersey, calls the new game educational Catch-22. The pawns are the high school publications advisers—the ones with two kids and a mortgage. They are destined to lose the game, and the stakes are high—their careers.

No longer does the principal call the student editor on the carpet when the school newspaper prints controversial material. Most administrators have finally realized that they can't kick a kid out of school for complaining in print. But what about the advisers? They are *employees* of the school system. Just like any other worker, they are bound by a contract to obey the boss's orders.

So the new strategy is to put pressure on the adviser to see that the pages of the student newspaper portray a "positive" image of the school. "No sex, drugs, complaints, or discord," the administrator tells the adviser, "or

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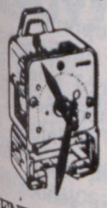

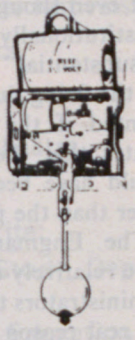

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you're out of a job. It doesn't really matter how you do it, just do it. You can be subtle or direct; you can cajole your students or simply censor them. I just want a paper safe enough to send home to the parents."

The Catch-22 is this: If the adviser does censor the paper, its staff can sue him or her for violating their constitutional rights. It doesn't happen often—lawyers for complaining staffers prefer going after the big fish, the superintendent and school board members—but it does happen. Just this spring, in Oregon, a student who was demoted from his editorial position sued his adviser. He claimed he was demoted because of an article critical of the school board that he had drafted; she alleged it was due to his absence from paste-up sessions two weeks in a row.

The law is clear: Advisers enjoy no greater power than administrators to delete "controversial" articles (libel, obscenity, and disruptive material excepted). But advisers are being told, "Break the law—violate the constitutional rights of your students—or lose your teaching position."

Can a teacher be fired for refusing to commit an illegal act? Arguably not. A disturbing ethical dilemma, an interesting legal question. A recent national trend indicates, however, that administrators are trying to fire teachers for doing just that.

The danger would not be so great if there were only a few isolated incidents. But the episodes are legion. Adviser firings represent one of the most serious threats to an uncensored student press in the Republic today. Sample a few tidbits.

• At the beginning of the 1976-77 academic year, the principal of Union Grove (Wisconsin) High School ordered Jim Engmann, adviser of the school newspaper, to "be responsible for the content of the publication." Engmann respectfully declined. (Engmann and the school board were in a battle over control of the school paper at the time.) In 1977, the board voted not to renew Engmann's contract. The official reason given for this action was Engmann's failure to censor the headline "Rest Room Gripe: Student Pissed." The board said that the issue of the paper in which that headline appeared "brought disrepute upon the school system."

Not one to take things lying down, the defiant Engmann sued. The NEA DuShane Fund supported him in his suit.

Last April, Union Grove School District agreed out of court to pay him $22,500 in damages, the largest award to date to a fired adviser, as compensation for the violation of his constitutional rights. The board also agreed to remove from Engmann's personnel file all adverse references connected with his nonrenewal and to add an employment recommendation that was not adverse. Since the decision is only a settlement between parties rather than a ruling of a court, the case has little precedential value for future litigants, but Wisconsin advisers doubtless sleep a little better at night because of Engmann's intrepid stand in defense of the First Amendment.

• Terri Nelson, adviser to the Yorktown (Indiana) High School *Broadcaster*, similarly refused to buckle under to administrative pressure. Between October 1978 and February 1979, Nelson received no fewer than 10 written reprimands from principal James Laws, complaining of the "negativism" in the paper and "directing [her] as the adviser for the newspaper to develop a more positive approach by the students." Laws also demanded that she reveal the names of students who had written anonymously published letters to the editor critical of the school. She refused.

Not to be defied, the principal recommended to the school board that Nelson not be granted tenure. The board accepted Laws's recommendation.

Last February, Nelson sued Laws for $65,000, claiming that his adverse recommendation was in retaliation for her refusal to censor illegally her students and asking the court to restrain permanently Laws from "attempting to censor, impose prior restraints on, or otherwise dictate what is and is not published in the *Broadcaster*." The NEA DuShane Fund and the Indiana State Teachers Association under the Unified Legal Services Program supported Nelson in her suit.

The suit was settled out of court in June, with the school board awarding Nelson tenure, striking from her personnel file all unfavorable ratings for the year in question, and recognizing in writing that "the student publications in this school corporation are protected by the First Amendment . . . ."

So much for the victories. Now for the defeats. The U.S. Supreme Court has repeatedly said that public school teachers may not be fired solely for exercising their First Amendment prerogative to voice their opinions on issues of public concern, even when they are critical of their school system.

But the High Court has also said that even though a teacher shows that constitutionally protected conduct was a "substantial" or "motivating" factor for the firing, judicial relief will not be granted if the school board demonstrates that the same board decision would have been reached for reasons other than the protected speech.

The Engmann and Nelson cases were relatively easy to win because the administrators themselves documented the real reason for the firings: failure to gag the voice of the students. Not all school officials are so candid. Furthermore, a board can get rid of a "problem" adviser if it can show independent grounds which would have resulted in termination. Thus if an adviser becomes the subject of increased scrutiny, it may be more difficult to fight the firing in court.

• Perhaps the most notorious case in this category involved Don Patrick Nicholson of Torrence, California. He was fired in 1970 for allowing his newspaper staffers to write stories about the problems of Chicanos, features about police-student relations, and reviews of *Midnight Cowboy* and *Hair* and for refusing to adhere to the Rotary Four-Way Test for personal behavior as the school's publications guidelines. In case you're not a Rotarian, the test is—

1. Is it the truth?
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Nicholson sued for reinstatement and $118,000 in damages. The NEA DuShane Fund and the California Teachers Association supported him in his suit.

The school board claimed it had rea-

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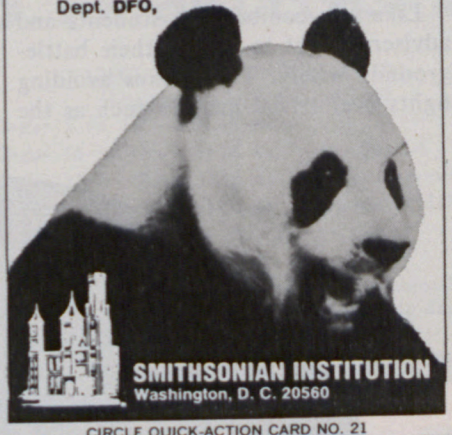

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sons other than the controversy about the newspaper for his removal, including dismissing class for lunch on the wrong bell, smoking in the hall, turning in textbook lists late, and taking his class off campus. Although these charges had not been raised until after Nicholson had requested an administrative hearing, he was unable to convince a federal judge that the real reason for his dismissal was the content of the student newspaper.

• Of more current interest is the plight of Ruth Carlock of Abbeville, South Carolina, who has been unemployed for more than a year. She was fired as an English teacher and as the adviser to the school newspaper after the newspaper published controversial material concerning racial issues written by students and by Carlock herself.

Carlock sued the school board in December 1978. The NEA DuShane Fund and the South Carolina Education Association under the Unified Legal Services Program supported her in her suit.

Carlock claimed she was fired for allowing her students to print controversial material and for expressing her own criticisms of the school. Predictably, the defendants have denied that this was a factor in their decision not to renew her contract, even though the superintendent had sent her a letter of reprimand concerning her article. Rather, they claim she was released because she permitted her students to leave school early on the day before Thanksgiving break, a venial sin she readily confesses to while pointing out that other teachers, guilty of the same misconduct, were not similarly punished. Whom will the jury choose to believe when the case goes to trial?

The message to the publications adviser could not be clearer: Have a good working knowledge of the First Amendment or you might find yourself the defendant in a lawsuit, or worse yet, out of a job.

How does an adviser stay out of trouble—and out of court? The most effective means is to adopt guidelines for student publications that clearly define the role and responsibility of the faculty adviser (to teach—not censor) and that spell out precisely what students can and cannot publish.

The adviser must also educate administrators about the First Amendment rights of student journalists. This includes engendering a healthy respect for the rule of law—an admittedly difficult but not impossible task. The alternative—litigation—can be an expensive lesson in constitutional law.

Students themselves must develop a sense of professional responsibility; that, too, is a part of the learning experience. The Journalism Canons of Ethics should be an integral part of the journalism curriculum. Most censorship controversies can be avoided by adhering to the canons.

Like any combatants, students and advisers ought to choose their battlegrounds wisely. This means avoiding fights over trivial matters such as the printing of four-letter words. If students and advisers man the battlements in defense of the First Amendment, it should be over substantive issues.

The publications adviser must be especially careful to keep his or her record clean. An antagonistic administrator will be looking for any pretext to dispose of an "insubordinate" or "uncooperative" teacher.

Freedom of expression is the cornerstone of our constitutional system; it is a fundamental value of American democracy. Students learn what they experience. Through working on or reading an uncensored student publication, young people can apprehend the true meaning of free speech.

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2492 I am wanting to be loved.

2203 You're special.

2866 If you love somebody let them know.

2319 When you come to the end of your rope, make a knot, and hang on.

2628 It's hard to be humble when you're as good as I am.

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2832 We all make mistakes.

2417 Love is like the moon: Beautiful and ever new.

2617 Learn to eat problems for breakfast.

2456 If you want a friend, be a friend.

2187 We're all in this together.

2479 I always see better with my heart.

2549 A friend is one who comes in when the whole world has gone out.

2353 Do not pray for an easy life. Pray to be a strong person.

2860 May each new season be a time for new beginnings.

2865 We all need a helping hand.

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**36** We need each other.

**2280** See. I make all things new.

**2448** Nothing improves my hearing better than praise.

**2830** I don't need a great deal of love, but I do need a steady supply.

**39** To know me is to love me.

**2589** Thank you, Lord.

**2935** There are two lasting gifts we can give our children—one is roots, the other is wings.

**2869** The best thing to hold onto in this world is each other.

**2836** I'm so far behind I think I'm first.

**2783** Be good to yourself now and then.

**74** God grant me the serenity to accept the things I cannot change...

**2837** I gotta be me.

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**2469** You have only to open your eyes to see the hand of God.

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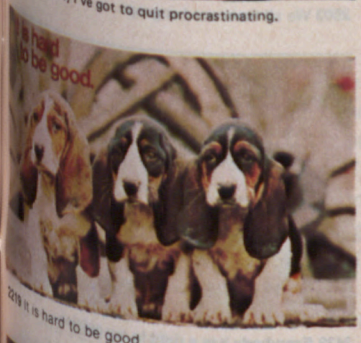
**2870** You see things as they are and ask "Why?" But I dream things that never were and ask "Why not?"

2367 Tomorrow, I've got to quit procrastinating.

**2537** Love understands and therefore waits.

**2595** The smallest good deed is better than the grandest good intention.

**2584** Sometimes you have to go ou on a limb.




2219 It is hard to be good.

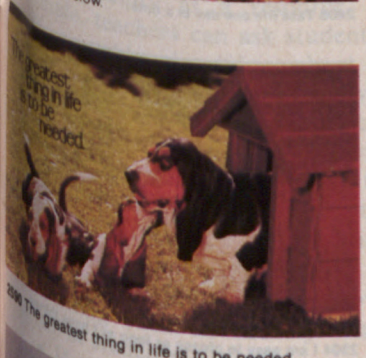
**2840** I know what my problem is. What's yours?

**2570** To a friend's house the road is never long.

**2523** If your heart is full of love, you always have something to give.

2264 I wake up slow.

**2407 Happiness is found along the way, not at the end of the road.**




2080 The greatest thing in life is to be needed.

**660** They can because they think they can.

**2208** Complaint Form. Please write your complaint in the square below. Write legibly.

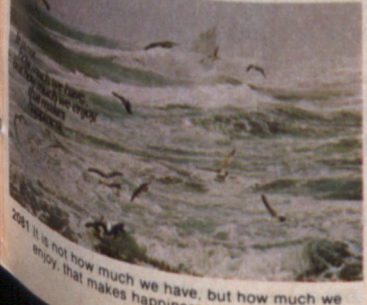
**2856** Happiness is like a kiss. It feels best when you give it to someone else.

2709 Hard work never hurt anybody, but I'm not taking any chances.

**2438 Hold to a true friend with both your hands.**

**2607** Don't fuss! Just treat me like any other great person

**2572 I am not afraid of tomorrow for I have seen yesterday and I love today.**




2081 It is not how much we have, but how much we enjoy, that makes happiness.

**2367** The more I study, the more I know. The more I know, the more I forget. The more I forget, the less I know. So why study?

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| ___ | 760 | If you do |
| ___ | 2081 | It is not how |
| ___ | 2186 | We need |
| ___ | 2187 | We're all in |
| ___ | 2203 | You're |
| ___ | 2208 | Complaint |
| ___ | 2219 | It is hard to |
| ___ | 2280 | See, I make |
| ___ | 2319 | When you |
| ___ | 2344 | I wake up |
| ___ | 2353 | Do not pray |
| ___ | 2367 | The more I |
| ___ | 2393 | Things are |
| ___ | 2399 | To know me |
| ___ | 2407 | Happiness is |
| ___ | 2408 | Take life one |
| ___ | 2417 | Love is like |
| ___ | 2432 | It's nice to |
| ___ | 2438 | Hold to a true |
| ___ | 2439 | Everybody |
| ___ | 2448 | Nothing |
| ___ | 2456 | If you want a |
| ___ | 2469 | You have |
| ___ | 2479 | I always see |
| ___ | 2492 | I am wanting |
| ___ | 2503 | We all have |
| ___ | 2504 | I am easy to |
| ___ | 2523 | If your heart |
| ___ | 2537 | Love |
| ___ | 2549 | A friend is |
| ___ | 2570 | To a friend's |
| ___ | 2572 | I am not |
| ___ | 2584 | Sometimes |
| ___ | 2589 | Thank you |
| ___ | 2590 | The greatest |
| ___ | 2595 | The smallest |
| ___ | 2607 | Don't fuss! |
| ___ | 2617 | Learn to eat |
| ___ | 2628 | It's hard to |
| ___ | 2630 | Some people |
| ___ | 2675 | Those with |
| ___ | 2709 | Hard work |
| ___ | 2748 | A house is |
| ___ | 2757 | I have tried |
| ___ | 2760 | Do you ever |
| ___ | 2779 | If you love |
| ___ | 2783 | Be good to |
| ___ | 2830 | I don't need |
| ___ | 2832 | We all make |
| ___ | 2836 | I'm so far |
| ___ | 2837 | I gotta be me. |
| ___ | 2840 | I know what |
| ___ | 2856 | Happiness is |
| ___ | 2858 | Now that |
| ___ | 2860 | May each |
| ___ | 2865 | We all need a |
| ___ | 2866 | If you love |
| ___ | 2867 | Tomorrow, |
| ___ | 2868 | When I feel |
| ___ | 2869 | The best |
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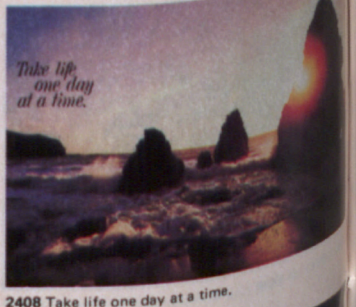
**2757** I have tried so hard to become what I ought to be that I forgot what I am.

**2503** We all have our hang-ups.

**760** If you do not understand my silence, you will not understand my words.

**2439 Everybody has a right to my opinion.**

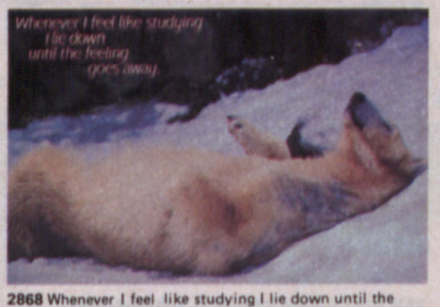
**2432** It's nice to be liked just the way you are.




**2408** Take life one day at a time.

**2393** Things are always at their best in their beginning.

**2504 I am easy to please as long as I have things my way.**




**2868** Whenever I feel like studying I lie down until the feeling goes away.

**2675** Those with the most horse sense do the least kicking.

**2858** Now that we're organized, what do we do?

**2760** Do you ever feel like you've been left out in the cold?

# SOME TEACHING STRATEGIES

*This section describing suggested teaching strategies was prepared for* Today's Education *by staff members of the Constitutional Rights Foundation (CRF), a private nonprofit organization based in Los Angeles that works to improve law and citizenship education for young people. The staff members who have contributed to this section have had experience as teachers and/or as curriculum developers. The aim of the strategies they suggest is to involve students actively in discovering practical applications of the First Amendment.*

**Opinion Survey**

In dealing with issues surrounding the First Amendment and freedom of the press, teachers should not overlook the community as a resource. For example, teachers can ask students to survey neighbors' opinions about free press issues. Then students can evaluate and analyze these data. This activity can help students develop interviewing skills, consider attitudes other than their own, and become aware of their community's attitudes about controversial issues.

Here are the four steps to follow in conducting such an activity with a group of students:

• Help the class design a survey instrument that contains items relating to First Amendment and free press issues. It may be helpful to have students review class materials, newspapers, or magazines to stimulate their thinking about which issues to address. Then discuss with students which items to include in the survey.

Following is a sample survey:

**Community Freedom of the Press Survey**

1. Television camera teams should be allowed to cover all criminal trial proceedings. Agree ___ Disagree ___ Not Sure ___

2. A high school newspaper staff should have all the First Amendment rights guaranteed to other journalists. Agree ___ Disagree ___ Not Sure ___

3. A reporter should not have to disclose the name of his or her informant even under court order. Agree ___ Disagree ___ Not Sure ___

4. The press should not be allowed to publish the names of juveniles accused of crimes. Agree ___ Disagree ___ Not Sure ___

5. On balance, America's news establishment provides accurate and unbiased reporting. Agree ___ Disagree ___ Not Sure ___

6. Getting a search warrant for a newsroom should be more difficult than getting one for a citizen's home. Agree ___ Disagree ___ Not Sure ___

7. Television news should not cover violent acts or demonstrations by groups seeking publicity for their causes because to do so encourages lawlessness. Agree ___ Disagree ___ Not Sure ___

• Divide the class into survey teams of at least two students each. If possible, the members of each team should live in the same neighborhood and should be responsible for conducting a survey in their neighborhood.

• Instruct students in proper interviewing techniques. For example, each student should begin each interview by identifying himself or herself as a student from ___ High School who is working on a school project on the First Amendment and freedom of the press. Tell students to explain that the answers interviewees give will be kept in confidence.

• When the surveys have been completed, have students tabulate the results, compare and contrast attitudes found in various neighborhoods, write summaries characterizing the attitudes of the community, and research recent national polls to find similar items and compare the national responses with community results.

—**Marshall L. Croddy,** *attorney; staff writer, CRF.*

**Court Simulation**

Although the First Amendment protects freedom of the press, it is not an absolute right. In determining its limits, the right of freedom of the press must be weighed against other important societal values and interests like efficient law enforcement and fair trials. The following case—similar to an actual case, *Zurcher* v. *Stanford Daily*, that the Supreme Court ruled on in 1978—represents such a conflict. Have students read the case and then take part in a court simulation.

It is midmorning in the newsroom of the university newspaper. During the past few weeks, the campus has grown tense, at times violent. The university administration has refused growing student demands to end its ties with a nuclear research laboratory, which the students claim is involved in the development of nuclear weapons.

Students have held daily demonstrations. A few days ago, one of the demonstrations became violent. Nine police officers were injured in a fight with demonstrators.

Now, several police officers enter the newsroom. With them, they carry a search

Students review magazines, newspapers, and other materials in studying freedom of the press.

warrant, an order from a judge giving the police the legal right to search the newsroom. The officers are looking for photographs of the demonstration to help them identify their attackers.

The editor of the paper asks to see the warrant. The warrant appears to be proper. It states the place to be searched and the things to be seized (which are photos), and it explains why the police have reason to believe the photos are connected with the crime committed. No one on the newspaper itself, however, was involved in the crime.

As the police search the files, desks, and wastebaskets, the editor becomes more and more disturbed. The files contain confidential information given to reporters only after they had promised to keep the information secret and not to reveal its source. There are notes about a student meeting which outline plans for a future student protest. If the police obtain these notes and are ready for the protest, protesters will know where the police got their information. Reporters will no longer be permitted to attend student meetings, because students will fear the reporters are not keeping information confidential.

After the police complete the search, the editor decides that searches such as this are a threat to freedom of the press. The editor and the publishers of the paper feel that if the police are allowed to search newspaper offices, sources of information won't believe that their identities will remain secret and so won't talk to reporters. This would interfere with the public's right to know. Therefore, the newspaper sues the Police Department for violating its First Amendment rights.

In addition to raising the point about the public's right to know, lawyers for the newspaper also argue that instead of using a search warrant, the police should have been required to obtain a subpoena. There are two major differences between a subpoena and a warrant. First, a subpoena requires a person who has evidence to surrender it to the court. A warrant allows the police to go in and get it. Second, a subpoena can be challenged in court, where a judge will decide whether it is necessary for law enforcement officials to have the evidence cited in the subpoena. The judge makes a decision based on the arguments of both sides. A warrant may not be challenged in court before it is served. Law enforcement officials simply explain to the judge the need for the evidence cited in the warrant. The party to be searched has no say in the matter. A warrant often permits police to gather evidence more quickly than a subpoena does.

As soon as students have read the case, select members of the class to

play the following roles: a Chief Justice of the Supreme Court, who will preside over the Court; eight Associate Justices of the Supreme Court; two attorneys for the Police Department, who must try to convince the Court that searches of newspaper offices can be constitutional; two attorneys for the newspaper, who must try to convince the Court that searches of newspaper offices endanger a free press and that a subpoena is an appropriate alternative; and a timekeeper.

The rest of the class will be observers; they should listen to the proceedings carefully because they will vote on which side is more persuasive in presenting its arguments.

Schedule the actual Court arguments for a future date, so that students will have time to think about the case and prepare their arguments. The two attorneys on a team should work together, planning who will cover which parts of their argument.

On the day the Court hears oral arguments, each team of attorneys has 15 minutes to argue its side of the case. The attorneys may use notes when presenting their arguments.

When an attorney argues before the Court, a Justice may interrupt to ask a question that he or she feels will help make the arguments clearer. A Justice may ask hypothetical "what if" questions and can even raise a point for the other side, saying "How would you answer that, Counsel?" If two or more Justices interrupt an attorney at the same time, the Chief Justice should point to the Justice whose turn it will be to speak first. The purpose of the Justices' questions is to help each of them decide how to rule in this case.

The timekeeper should signal when 5 minutes of an attorney's time is left and when 1 minute remains. At the end of 15 minutes, the argument must stop, unless the Chief Justice allows an attorney to finish answering a question.

At the end of the presentations, the Supreme Court will adjourn for the day. The next day, while the Justices are meeting to discuss the case, the class also may wish to discuss the arguments and vote on which side had the stronger arguments. The Justices—and the class—should remember that it is not their personal opinion that is important here, but their best legal judgment as to the meaning of the First Amendment's guarantee of a free press, as applied in this case.

When discussion time is over, the Justices take a vote. The Justices who vote with the majority jot down the reasons for the majority decision. Any Justices who concur in the result but not the reasoning should jot down their own reasons for the decision also. Any Justices who dissent from the majority position should write their minority opinions.

The Chief Justice should announce the results to the class in the following form:

It is the opinion of this Court by a ____ to ____ vote, that the search of the newsroom (is/is not) constitutional. A subpoena (would/would not) be a reasonable alternative to a full-scale search.

Have students compare the Court's decision with the class's. Compare both of these with the U.S. Supreme Court's decision in the case of *Zurcher* v. *Stanford Daily*. In that case, the Supreme Court ruled in favor of James Zurcher, the police chief of Palo Alto, California, where Stanford University is located. The Court said that to require police to use a subpoena in such a case would be too great a hazard to criminal investigations. The Court held that the requirements for obtaining a search warrant provide sufficient protection of First Amendment rights. Where First Amendment rights are endangered, these requirements must simply be applied strictly.

The Court was not convinced that confidential sources would dry up from the use of search warrants in newsrooms, nor that reporters would suppress news because of fear of police searches. The Court found no reason to fear abuse of this investigative tool by police if the warrant requirements were properly applied. Thus there would be no opportunity for officers to rummage through newspaper files or intrude into normal editorial and publication decisions.

Justices Potter Stewart and Thurgood Marshall dissented from the majority opinion, contending that the use of search warrants in newsrooms would seriously burden the freedom of the press. A subpoena, they felt, would better protect the newspaper's operations and sources while still providing the required evidence. Justice John Paul Stevens also dissented, on the grounds that the use of a search warrant where a person is not a criminal suspect is an invasion of the privacy of the ordinary citizen. Such an intrusion is not justified by the law enforcement interest unless there is reason to believe that evidence would be destroyed by that individual.

—**David Ginsberg,** *law student, University of Southern California; 1978-79 Clore Warne Legal Intern, CRF; and* **Phyllis Maxey,** *a project director at CRF; former high school social studies teacher.*

**Role Playing**

The following activity gives students an opportunity to address a variety of controversial issues relating to the responsibility of a free press.

Have students read the following fictitious case:

Alice Shewster is one of three candidates the President of the United States is considering for the post of Secretary of Health and Human Resources. Shewster, 37, is currently a U.S. Congresswoman. She was elected eight years ago, in part because of her antidrug campaign, dubbed "Toughen Up." Prior to that, she had received national political recognition for developing an innovative drug abuse project, which has been adopted in many states.

The opponent who ran against Shewster four years ago has tipped off a reporter with *Metrodaily* that Shewster spiked punch with LSD at a sorority party at the University of California at Berkeley in 1965. The reporter has contacted two of Shewster's sorority sisters, who have acknowledged that although Shewster never used drugs heavily, she did try marijuana and LSD. All three sources have asked that their names be kept confidential.

The reporter has called Shewster for a statement. She has refused to comment, but five of her college friends have telephoned the reporter later to deny that Shewster ever used drugs during college.

Divide the class into groups of five students each to discuss whether or not the *Metrodaily* should run the story. Assign one of the following roles to one student within each group.

*Executive Editor.* Ultimately, the decision of whether or not to run a story rests on your shoulders. Your central question is, Is this information about Shewster's past private life sufficiently important for you to expose it to the public and thus endanger her nomination?

*Managing Editor.* You supervise *Metrodaily's* editorial operations. You have just

come from a meeting with the head of the circulation department, who has told you to do something about declining sales quick. Your central question is, If we've got a sensational exposé, why not run it?

*City Editor.* You supervise all editorial operations of the news department and are nervous about the Shewster story. You're aware that the paper needs a big scoop to boost sales, but you fear that printing this story may be an act of irresponsible journalism. Your central question is, Do we really have enough solid information to run the story?

*Libel Lawyer.* Your job is to protect your newspaper against possible libel suits, which result when a person sues the paper for printing stories which the person claims are untrue and harm his or her reputation. Shewster, however, is a public figure. Unless the story is published "with knowledge of its falsity or with reckless disregard of the truth," no suit for libel will succeed. Your central question is, Is it safe for the paper to publish the story?

*Reporter.* You're anxious to run the story. It's the first time you've ever covered something as controversial and secret as this. You, however, have private doubts about the story's facts. Your central question is, What can I do to make publishing this story less risky?

Allow students 15 minutes to read their roles and form their positions.

Have the students begin to role play by asking the Executive Editor to call on participants to explain their positions. Based on this information, the Editor will make the group's final decision.

Have a spokesperson from each group announce its Editor's decision and why he or she reached that decision. Then discuss the following questions with the class:

- What effects will the Editor's decision have on the newspaper and on the public?
- Do you agree with the Editor's decision? Why or why not?
- What other decisions might the Editor have reached?

—**Debra Dresbach,** *staff writer, CRF, and* **Phyllis Maxey,** *a project director at CRF*

**Reporters in Action**

This activity can be used as a springboard for discussing issues such as news accuracy, point of view in reporting, bias, and/or slanted coverage.

Select two or more students to feign a conflict for their classmates. The scene should be as realistic as possible and result in a verbal confrontation that requires the teacher's involvement. For example, have a student known for acting-out behavior walk past a classmate's desk and shove books and notebook to the floor.

Just as the confrontation reaches its emotional peak, have students note down everything they have just witnessed. As soon as they have finished, ask them to write up a one-page account of the incident from their notes. (They may do this for homework if necessary.) Tell them not to compare notes with their classmates, and explain that their stories should answer these questions:

- What happened? What was the sequence of events?
- Who was involved, and who said what during the confrontation?
- What were the emotional reactions of the students involved?
- Why did the confrontation take place, and who was responsible?

Then have several students read their stories aloud to the class or divide the class into groups to compare stories. Have the class or groups choose the account of the confrontation they believe is most accurate.

Then lead a class discussion focusing on the reasons for the differences among the various accounts and their application to the responsibilities of a free press. Questions might include the following:

- What factors contribute to differences in accounts of the same event?
- Which of these factors—the writer's powers of observation, the writer's use of language, the writer's bias—is the most important? Why?
- Do you think these factors might affect the way in which different reporters cover the same story?
- Do you think there are differences in the way in which different media, for example, television and newspapers, report the news? What are they? Which is more accurate?

—**Marshall L. Croddy,** *staff writer, CRF, and* **Karen De Munbrun,** *staff writer, CRF.*

**Devil's Advocate**

An advocate is one who defends a cause. A devil's advocate is one who defends an unpopular position simply for the sake of argument.

This activity is designed to help students identify and analyze not only their own beliefs, values, and interests, but those of others as well. It puts students in the position of pleading both for and against a position. They will argue in favor of a cause that is contrary to their own values or beliefs.

Present a controversial statement to the class. Consider the following examples as possibilities:

1. Women sports reporters should not be allowed to enter male athletes' locker rooms to conduct interviews.
2. School administrators and teachers should have no say or control over the content of a school newspaper.
3. Juvenile trials should be open to the public.
4. The people's right to know about the private lives of politicians is more important than a politician's right to privacy.

Poll the class to determine which students agree with the statement under discussion and which disagree. Divide the class accordingly.

Tell students to work independently and to list why they agree or disagree with the statement. Then, instead of asking students to present their own arguments, tell them to become devil's advocates, by finding information in *opposition to* their original point of view. Allow two days for the research.

Then have the students on each side, working as a team, present their best counterarguments.

In concluding the activity, have students answer the following questions:

1. Was it hard for you to defend a position that opposed your original point of view?
2. Did you gain more understanding of the reasons behind the position with which you did not agree?
3. Did this experience help you to develop more skill in stating your point of view clearly?

—**Richard Weintraub,** *associate education director, CRF; president, California Council on Children and Youth; and former high school social studies teacher and* **Doris Bloch,** *community programs director, CRF.*

For further information about Foundation programs, write to Constitutional Rights Foundation, 6310 San Vicente Blvd., Suite 402, Los Angeles 90048.

# SOME RESOURCES ON THE FREE PRESS

**Books and Booklets**

***Fair Trial/Free Press.*** Todd Clark. Includes case studies and discussion questions to help students focus on the conflict between the right of the press to publish all news freely and the right of a defendant to a jury that is unbiased from pretrial publicity. Secondary. 1977. 72 pp. $3.64 (school discounts available). Glencoe Pub. Co., Inc., Front and Brown Sts., Riverside, NJ 08370.

***Freedom of Speech.*** Franklyn S. Haiman, editor. Part of To Protect These Rights series, sponsored by the American Civil Liberties Union. Contains in-depth discussions of landmark free-press cases, as well as other major cases on freedom of expression. Secondary. 1978. 221 pp. School price per copy, $5.25. National Textbook Co., 8259 Niles Center Rd., Skokie, IL 60076.

***The Idea of Liberty: First Amendment Freedoms.*** Isidore Starr. An excellent overview of the First Amendment freedoms. Discusses landmark U.S. Supreme Court cases, traces historical trends, and raises relevant questions about free press and other First Amendment issues. Secondary. 1978. 239 pp. $4.75. West Pub. Co., Inc., 1750 Old Country Rd., Mineola, NY 11501.

***The Right To Be Informed: Censorship in the United States.*** Gerald S. Snyder. A lively look at a variety of areas of censorship: books under attack, government controls, protests against violence and sex in the media, constraints on the press, and more. Secondary. Updated 1978. 191 pp. $7.79. Julian Messner, a Simon & Schuster Division, 1230 Avenue of the Americas, New York 10020.

***Update on Law-Related Education: Freedom of Press on Trial.*** Special issue of *Update,* magazine of the American Bar Association's Special Committee on Youth Education for Citizenship. Focuses on both current and historical free press issues. Covers watershed Supreme Court decisions, the emerging student press, the free press in Japan, and mock-trial teaching strategies. 1978. 48 pp. $2. American Bar Association, YEFC, 1155 E. 60th St., Chicago 60637.

**Audiovisual Materials**

***The First and Essential Freedom.*** An ABC documentary about freedom of the press yesterday and today. Discusses Watergate, the Pentagon Papers, shield laws, investigative reporting, and more. Secondary and college levels. 16mm color/sound film. 52 min. 1974. Sale, $665; rental, one day, $42. Xerox Films, 245 Long Hill Rd., Middletown, CT 06457.

***Free Press: A Need To Know the News.*** An easily comprehensible film which prods young people to explore the sources of the news. Illustrates the importance of the free press in creating informed citizens. Grades 4-8. Color filmstrip (10 min.), cassette, six spirit masters, and teacher's guide. 1977. $30. Pathescope Educational Media, Inc., 71 Weyman Ave., New Rochelle, NY 10802.

***Free Press v. Fair Trial by Jury: The Sheppard Case.*** Examines the balance between a defendant's right to a fair and impartial trial and the conflicting right to a free press in this reconstruction of the famous Sam Sheppard murder case. Secondary and college. 16mm color/sound film. 27 min. 1970. Sale, $360; rental, $21. Encyclopaedia Britannica Educational Corp., 425 N. Michigan Ave., Chicago 60611.

***Free Speech and Press.*** Provides open-ended questions about the extent and limits of First Amendment privileges. Gives examples of situations where exercising free expression can violate the rights of others. Grades 7-12. Color/sound filmstrip (14 min.), student source books, duplicating masters, and teacher's guide. 1974. $50. Xerox Education Publications, 1250 Fairwood Ave., P.O. Box 16629, Columbus, OH 43216.

***Freedom of the Press.*** Presents the case of a reporter who is subpoenaed by a grand jury and refuses to answer questions about his sources for implicating a senator in corrupt activities. Resolution left up to the students. Secondary. 16 mm color/sound film. 21 min. 1973. Sale, $360; rental, $43. BFA Educational Media, 221 Michigan Ave., Santa Monica, CA 90404.

***The Student Press: A Case Study.*** Unit that explores the conflict between freedom of expression and a school regulation. Tells the story of a student council which is not permitted to sell an underground newspaper on school grounds. Secondary. Color/sound filmstrip (6 min.), teacher's guide, student guides. 1972. $39.50. Guidance Associates, Communications Park, Box 300, White Plains, NY 10602.

**Organizations**

*The American Bar Association's Special Committee on Youth Education for Citizenship.* Acts as a national clearinghouse and coordinator in law-related education. Publishes a directory of programs ($2), curriculum cataloges ($1 each), and guides to program develop-

ment (set of three for $4). Also publishes the magazine *Update on Law-Related Education* (yearly subscription, $5), which covers the latest First Amendment/free press issues, as well as other law-related topics. Offers consulting services upon request. 1155 E. 60th St., Chicago 60637.

*American Newspaper Publishers Association Foundation.* Devoted to strengthening public understanding of freedom of speech and the press. Encourages using newspapers in the classroom, acts as a consultant to schools and newspapers, sponsors national conferences, and publishes instructional materials through its Newspaper in Education (NIE) program. Box 17407, Dulles Intl. Airport, Washington, DC 20041.

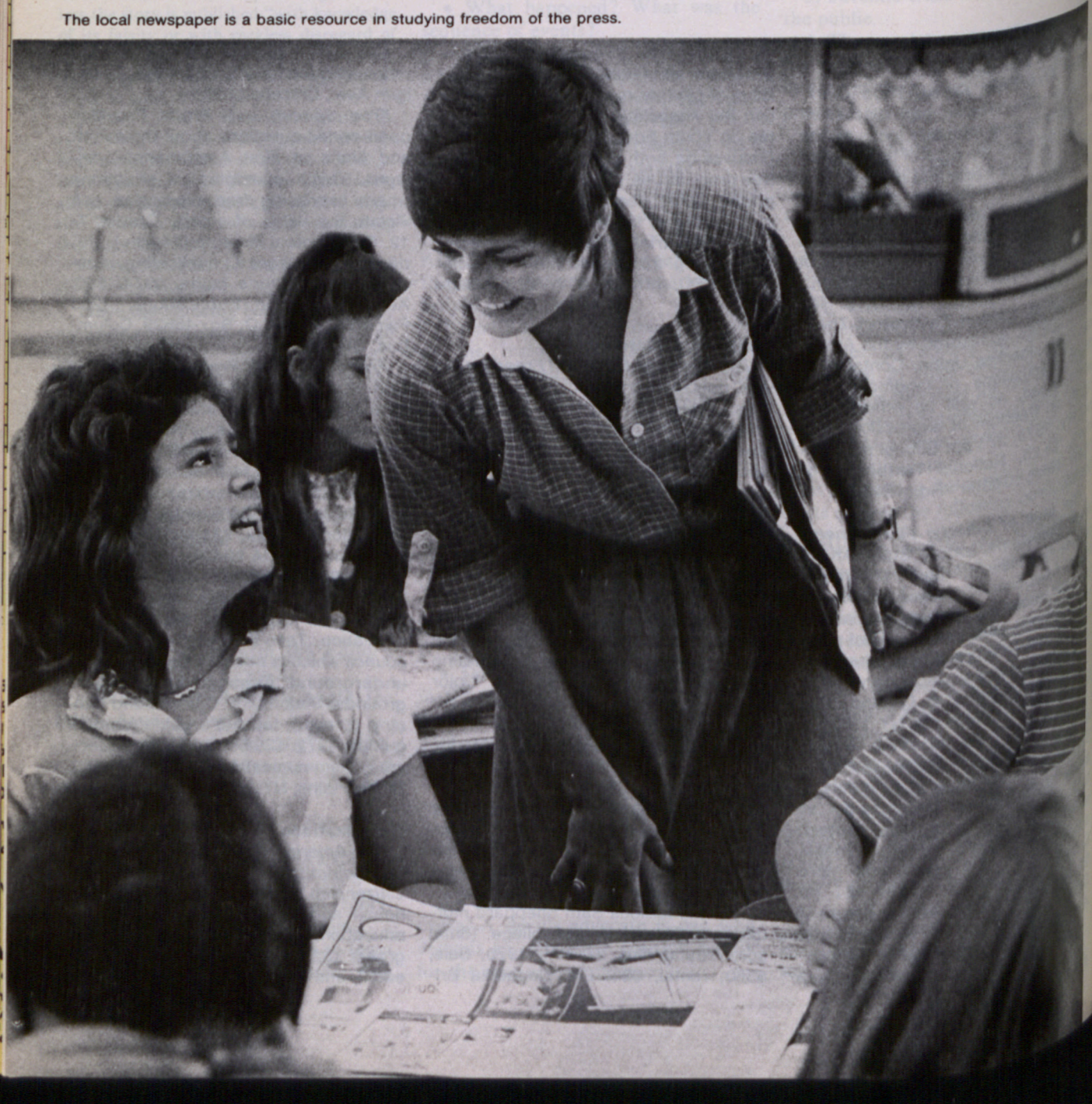
*Constitutional Rights Foundation.* A private nonprofit organization that works to improve law and citizenship education. Publishes a newsletter, *The Bill of Rights in Action.* 6310 San Vicente Blvd., Los Angeles 90048.

*The Reporters Committee for Freedom of the Press.* Operated and funded by the press for the press. Conducts legal research and defense efforts in support of freedom of the press. Publishes various materials including *The News and the Law*, a bimonthly update on free press cases and issues. Yearly dues, $15 (includes a subscription to *The News and the Law* and other Committee publications). 1125 15th St., N.W., Rm. 403, Washington, DC 20005.

*Student Press Law Center.* Dedicated to protecting the First Amendment rights of high school and college journalists. Provides direct legal assistance and advice to students and faculty members who have censorship and other legal problems. Publishes a newsletter, *Student Press Law Center Report* ($5 for students; $10 for nonstudents for three issues per year). 1033 30th St., N.W., Washington, DC 20007.

**—Lisa Broido,** *law student, Columbia University; former staff member of the American Bar Association's Special Committee on Youth Education for Citizenship.*

The local newspaper is a basic resource in studying freedom of the press.



# Truth in Testing

THIRD IN A SERIES OF ARTICLES ON TESTING

Last year more than 3 million students who applied to institutions of higher learning across the country took standardized admissions tests. Scores that these students obtained on these tests can follow them all their lives, with tremendous impact on their careers and incomes. Yet much of the important information regarding these tests is not available to the public. The testing companies publish only selected studies on the tests, and it is only in the past few years that they have provided retired versions of the tests to prospective test takers.

As both an educator and a parent, I became interested in this issue years ago. I watched with great concern the proliferation of standardized tests and the increasing importance assigned to them.

During the past few years, I have also witnessed the increasingly widespread use of coaching courses for these tests, which because of their very high costs—typically $250 for coaching on the *Scholastic Aptitude Test* (*SAT*) and $325 for coaching on the *Law School Admission Test* (*LSAT*)—are available only to a limited segment of the student population. I have been aware of the Federal Trade Commission (FTC) report on the effects of coaching upon test scores, which holds that coaching can improve the scores—a finding that test agencies have long denied. The report's admittedly conservative estimates show that coaching has resulted in 25-point score increases for some students on both the math and verbal sections of the *SAT*. In light of these findings, I have found it impossible to ignore the importance of equal access to information about tests and test questions.

During the past few years, I have also witnessed a growing movement for open government, for fuller disclosure by public agencies, and for greater access to public records. The consumer's desire for more information about standardized tests is, in part, a product of this movement.

In response to the public's desire for more information about testing and to my own concern about the negative consequences of standardized tests, I introduced Truth-in-Testing legislation into the New York legislature. Last July, my bill, commonly known as Truth in Testing (Chapter 672), was enacted.

The demand for Truth in Testing is sweeping the nation. California enacted Truth-in-Testing legislation in September 1978, and 10 other states are developing similar legislation. Congress considered a federal version of the New York law, sponsored by Representatives Ted Weiss, Shirley Chisholm, and George Miller, during its last session. A "hysterical lobbying effort" by large testing organizations, however, killed the legislation at that time, according to Weiss. Efforts may be made in the current session to continue work on the bill.

Let's take a look at the New York Truth-in-Testing law, which took effect on January 1. It applies to most standardized tests used for postsecondary admissions. It does not cover civil service exams, licensing exams, credit-by-examination tests, placement tests, or tests prepared by individual schools for their own use.

The law requires that testing agencies do the following:

- File with the State Commissioner of Education all studies, evaluations, or statistical reports about a test.
- File in the office of the State Commissioner of Education within 30 days after the results of any standardized tests are released: a copy of the test questions used in determining a subject's raw score, the corresponding acceptable answers to those questions, and all rules for transforming raw scores into the scores reported to the test taker along with an explanation of those rules.

Send to the test taker after the test has been filed with the Commissioner

By KENNETH P. LaVALLE
*New York State Senator.*

FUNKY WINKERBEAN
FUNKY, YOU SCORED VERY WELL ON THIS STANDARDIZED APTITUDE TEST!
SO WHAT DOES THAT MEAN, MR. FAIRGOOD?
IT MEANS YOU'RE VERY GOOD AT TAKING STANDARDIZED TESTS!
Tom Batiuk

Funky Winkerbean by Tom Batiuk Field Enterprises, Inc. © 1979
Courtesy of Field Newspaper Syndicate

and upon the request of the test taker: a copy of the test questions; the test taker's individual answer sheet along with a copy of the correct answer sheet; and a statement of the raw score used to calculate the scores already sent to the test taker, providing that he or she requests this information within 90 days of the release of the test score to him or her. The test agency may charge a nominal fee for this requested service.

This section of the law does not apply to the *College Board Achievement Tests* or to the *Graduate Record Examination Advanced Tests*.

- Supply to test takers, along with their registration forms, statements explaining factors such as the following: the purposes for which the test is constructed and is intended to be used; what the test purports to measure; how to interpret the test results, including information on such subjects as the test's standard error of measurement and any correlations between test scores on the one hand and grades, courses completed, and family income on the other; how scores will be reported and whether raw scores will be altered before being reported to the test taker; and a complete description of any promises that the test agency makes to the student about accuracy of scoring, policies for notifying students of inaccuracies in scoring or score reporting, and privacy of information on students.

Institutions which receive test scores shall also receive this background information.

- Disclose a test score only with a test taker's authorization.

Opposition to and support for this bill lined up early. The testing corporations, primarily Educational Testing Service (ETS), and test administrators (the College Entrance Examination Board and the Law School Admissions Council) opposed it. Many college administrators and admissions officers also were opposed. Parent, teacher, civil rights, consumer, and student groups, as well as many recognized test experts, favored it.

As chairman of the Higher Education Committee of the New York State Senate, I held a joint hearing on Chapter 672 with the Assembly's Higher Education Committee in May 1979. The hearing lasted six hours, and opponents and supporters of the bill gave testimony on the possible negative and positive effects of the legislation.

The testimony at our hearing and memos issued later by ETS and the College Board claimed that the bill would make impossible the technique of equating (making tests given at different times comparable to each other) and force an increase in test fees due to the continual need to create new test questions.

The equating issue has, with time, lost its appeal to the opponents. We have shown that the law permits proper equating. A routine method of equating involves inserting the same questions on different tests. This is the procedure followed by the developers of *SAT*, the largest standardized admission test and the model from which other ETS tests were developed. Because the inserted questions are not included in the subject's raw score, they are exempted from disclosure provisions of the law. In order to comply with the law, test publishers only have to adopt the *SAT* procedure. In addition, other statistical techniques for equating now in use by the testing industry are left undisturbed by this legislation. These methods include equating against a common standard and what is known as *sequential* equating, a process which involves equating with questions that have similar statistical characteristics.

The cost issue has, however, remained and is being used as the primary rationale against Truth in Testing. The claim by opponents that large fee increases for these tests will be necessary is based on the false assumption that Chapter 672 requires that separate tests be created for New York test takers. The bill contains no such requirement. Test questions prepared to comply with New York's Truth-in-Testing legislation can be used anywhere in the country. There is no justification whatsoever for charging New Yorkers more than residents of other states for the preparation of questions that can be used in tests given in every other state.

ETS, the largest testing agency, has admitted that it has a huge pool of questions already prepared. It further has conceded that most scored questions are used only once, necessitating the constant development of new questions.

What does this procedure now cost ETS? Its own studies show that only about 5 percent of a student's test fee is used to defray the cost of developing test questions.

According to ETS, Truth in Testing will increase the cost of *SAT* preparation by $1,092,000. Given the fact that most test questions are already newly written, this figure on its face appears greatly inflated. Even if it were true, however, it still amounts to only a fraction of the surplus ETS accumulates annually on the *SAT*. For example, according to ETS, revenues from the *SAT* in 1975-76 amounted to $16,260,652; expenses, to $13,232,474.

During the May hearing, admissions officers constantly spoke of the importance of standardized admissions tests. They said the tests provide a uniform yardstick against which all students can be evaluated objectively. They warned that without this yardstick, the admissions process might overlook "diamonds in the rough" and students with political pull or wealth could be unduly favored in the admissions process.

The intent of the law, however, is not to eliminate the use of standardized admissions tests but rather to improve their quality by subjecting them to public scrutiny. As Lewis W. Pike, a senior research associate at the National Institute of Education who was an employee of ETS for 14 years, stated in a letter that supported the law, "Opening these [tests] to public and noncorporate professional scrutiny will provide a source [of] motivation for quality control that is simply not otherwise present, however well-intentioned the test producer may be."

Teacher organizations, notably the New York State United Teachers, the New York State Education Association (NYEA), and the National Education Association, endorsed this legislation from its inception. Along with the PTA and the New York State Consumer Protection Board, they called for increased accountability on the part of the testing industry. As NYEA and NEA stated, "The Truth-in-Testing Bill is a first step toward requiring the testing industry to assume responsibility for the tests they publish and sell."

Students also actively supported the bill. They voiced concern over the growing use of these exams in light of experts' increasing skepticism about their validity and their possible cultural and economic bias. They also voiced concern over the FTC finding that coaching raises test scores and over the errors in the reporting of test scores.

Julia Stromsted, legislative director of the Independent Student Coalition (a New York organization representing students at independent colleges and universities), focused her testimony on the issue of errors in the reporting of test scores. Among the examples she cited was the problem of "unacknowledged repeaters."

A few years ago, the application form for the *LSAT* asked whether or not an applicant had taken the test before. The question appeared among a series of general clerical questions. This question, however, was not used for general clerical purposes as students were led to believe. Rather, it gave students who had taken the test before a chance to acknowledge that they had done so. Using its records of prior test takers, ETS identified repeaters who chose not to answer the question or who gave false answers. Until a few years ago, a designation for such "unacknowledged repeaters" was included on the score reports ETS sent to the law schools these students applied to.

During the 1975-76 applicant year, hundreds, perhaps thousands, of law school applicants were erroneously designated as "unacknowledged repeaters" due to computer error. ETS eventually told the law schools to disregard the designation but made no attempt either to correct the mistake or to inform applicants who may have been denied admission because of it. The error was discovered because of the curiosity of one admissions dean.

In her testimony Julia Stromsted cited another error—one that may have affected as many as 50,000 people who took the *Graduate Management Admission Test (GMAT)* in 1977. "These scores, although incorrect, were sent to hundreds of graduate schools across the country who used them to make their admissions decisions. While the error was not a large one, officials of the Educational Testing Service and several management schools admitted that the error could affect the admission of students to schools which use cutoff scores."

Wary of the implications of these problems, PTA representative Gerrie Blum noted in her testimony that "ETS has said that it welcomes informed criticism." To that offer she responded, "It's not easy to offer such criticism from an uninformed public."

I agree.

The press has devoted considerable space recently to the concerns of testing agencies about the New York law. Many of the articles, however, have not fully reported the variety of responses to the law, which differ from one test agency to another.

Despite recent press articles, which give the impression that there will be a $5 increase in *SAT* fees and a substantial decrease in the number of test administrations per year, all the major tests developed by ETS, including the *Preliminary Scholastic Aptitude Test* (*PSAT*), *SAT*, and *LSAT*, will be administered with only slight changes as a result of the law. The College Board, owner of the *PSAT* and *SAT*, has announced it will cut back services on the *SAT* in New York State by only one regular administration and three special administrations given for Sunday test takers between January and June 1980. This change, as well as a yet-unannounced (at press time) "modest surcharge," will cover the increased costs that will result from complying with the law.

Any fee increase is clearly unnecessary, however, as costs for development of *SAT* questions are small, and questions are already written anew for the most part. The College Board is simply trying to make it as difficult as possible to implement the law.

The Law School Admissions Council, which administers the standardized entrance examination for 116 of the nation's law schools, has announced that it would extend its compliance with Truth in Testing nationwide, but said it would cut back its services in order to make the new procedures economically feasible. Sponsors of the *Graduate Record Examination* (*GRE*) and the *GMAT* have also indicated that they will comply with the law. In addition, officials of the American Dental Association, the sponsor of the *Dental Admission Test* (*DAT*), have stated that they wish to comply with the law.

The Association of American Medical Colleges (AAMC), though, sponsor of the *New Medical College Admission Test* (*New MCAT*), has stated that it would withdraw its tests from New York State rather than comply with the law, a move that would force prospective medical students to take the test in another state. The major rationale offered for this extreme response is the inability to construct sufficient numbers of new questions for the *New MCAT*—a test AAMC commissioned in response to widespread criticism of their former test. The *New MCAT* was first administered in 1977. It covers only certain subject matters and then only up to intermediate levels. This eliminates unnecessary student preparation for the exam, which is laudable, but it remains unclear why enough new questions for only two test administrations each year cannot be developed.

Since the owners and makers of this exam did not get involved to any substantial degree in debating our bill before its passage, the New York legislature did not have the opportunity to debate and prove these issues before passage of the bill. I believe, however, the evidence will show that the test can fully comply with the law.

(Recently, the AAMC filed suit in federal district court in Albany to ask that the New York Truth-in-Testing law be declared unconstitutional. The Association asserts that the law violates the federal Copyright Act.)

It is important to note that ETS and a consortium of 13 medical schools, along with the National Board of Medical Examiners (a body usually concerned with examining physicians for licensure and certification), are developing new techniques for evaluating the interpersonal and problem-solving skills of prospective medical students. This is evidence that agencies and schools are seriously considering other ways of predicting success in medical school and in the practice of medicine.

Harcourt Brace Jovanovich, Inc., constructs many tests for admissions into schools that prepare students for careers in health fields—*Entrance Exam for Nursing, Pharmacy College*

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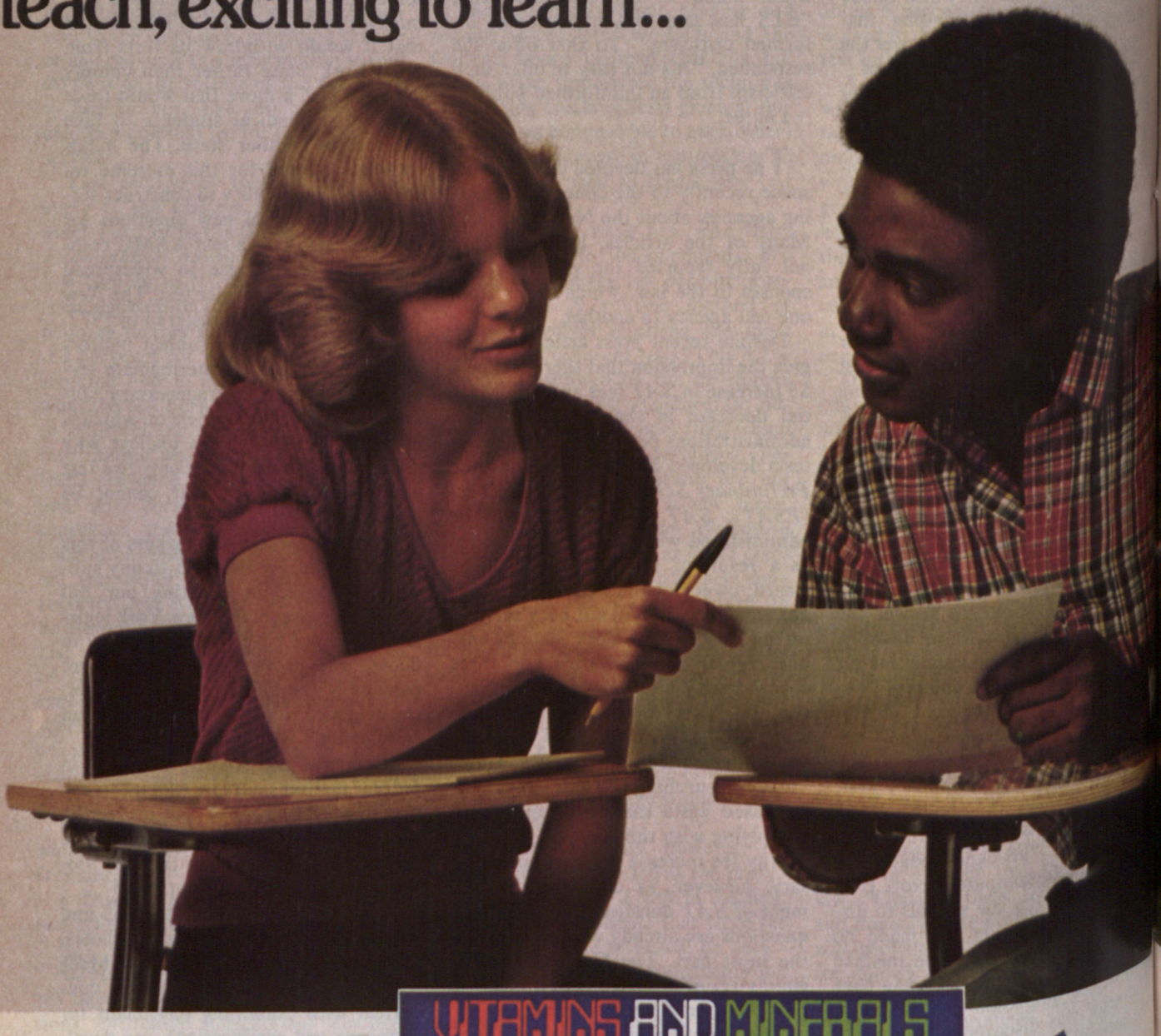

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# Truth in Testing

The intemperate responses of some academic testers to New York's truth-in-testing law are certain to damage their cause more than the law itself. The associations that administer admission tests for medical and dental schools have threatened to pull out of New York, and the Educational Testing Service, the nation's biggest testing enterprise, has said it might curtail services. Doubtless, the law will require more work on their part, and there will be added costs. But their complaints are overstated. In fact, the law is welcome; it's time to take the mystery out of college testing.

The law signed recently by Governor Carey applies to such examinations as the *Scholastic Aptitude Test* and the *Law School Admission Test* that colleges and graduate schools use to rank their applicants. As of January 1, 1980, a copy of any test offered in New York must be filed with the State Department of Education. In addition, data on how a test was constructed and validated must be made public. What irks the testers most is a provision that allows anyone who takes an exam to receive a graded copy. Questions used for research but not counted in scores and specialized achievement tests are exempt.

The testers say the law means an exam given in New York cannot be used again because its contents are likely to be disseminated elsewhere. They contend, too, that the law will create problems in equating tests—ensuring, for instance, that a 600 verbal score achieved in 1975 is comparable to a 600 in 1979. The testers therefore project drastic increases in cost to maintain the present level of service. And they're unhappy that the law goes into effect so quickly. This complaint may be justified. It takes months to prepare a test and a slight delay may be in order.

Testing services like ETS have been more open about themselves in recent years, and the tests have improved; today, most are fairer to minorities than they were 10 years ago. But the testers *still* haven't faced up to other exam limitations or to the frequent misuse of test results. Although testers caution against it, some schools still rely on scores as absolute indicators of ability. ETS, moreover, is surely exaggerating when it contends that the new law might drive up costs by as much as 50 percent and that even then it might not be able to uphold testing standards. Development costs are only a small part of total costs passed on to the consumer. And some authorities have argued convincingly that at least four techniques already used by the industry would permit equating and validating to continue undisturbed—at little or no extra cost.

In any case, there is the matter of elementary fairness. These academic tests help to shape the course of people's lives—their schooling, their careers, the very sense of their own abilities. Students deserve to know how they are being rated and judged. There are freedom-of-information laws, truth-in-lending laws, truth-in-packaging laws. Why not truth in testing as well?

*—Editorial from the* New York Times, *July 24, 1979. Reprinted with permission.*

*Admission Test* (*PCAT*), and *Veterinary Aptitude Test* (*VAT*). Harcourt chose not to become involved with the debate before the bill was passed and only recently provided us with figures which indicate that most of these exams are given to small populations of New York residents. For example, *PCAT* is given to 250 New York residents each year; the *VAT*, to 100.

I am aware of the burden of compliance with the law when tests have few examinees. Therefore, I plan to introduce amendments to the bill to limit compliance for tests that are prepared for small numbers of people.

The law will have many benefits, both long-range and immediate. As stated by the New York State Consumer Protection Board in its memo of support, ". . . this bill protects and strengthens a New Yorker's right-to-know in an area of great personal and public importance."

Right now, students can check their answer sheets for scoring errors and their reported scores for transforming errors. As more tests are filed, they will have access to many questions for study purposes.

The law will also help students better understand their scores by informing them of a test's error of measurement, how well a test predicts future performance, and how their scores will be altered before being reported to schools. It will lessen the inequities created by expensive test coaching schools by giving all students equal access to information about the tests and test questions.

Researchers who have awaited access to the information which the testing agencies must now disclose will begin independent studies and evaluations of the tests. Researchers who are already studying them may now prove or, yes, even disprove their hypotheses.

The mantle of secrecy has been broken, and light will be shed on the testing industry for the first time. As Vito Perrone, president of the National Consortium on Testing, stated, "By making the tests and background about the tests publicly available, the quality of public debate should be enhanced and the quality of tests improved. In addition, the purposes of the tests should be clarified." □

# Meet Chris Rogers

*"Often it seems to affect the healthy, good-looking, stoical, and hard-working . . . people who put up with things better than one thinks one would oneself," says W. Bryan Matthews, author of* Multiple Sclerosis: The Facts. *The* it, *of course, refers to multiple sclerosis, a neurological disease characterized by speech disturbances, muscular incoordination, weakness, and involuntary oscillation of the eyeball. Some who suffer from the disease become incapacitated.*

*Its symptoms are rare in children. Their frequency of onset increases in the late teen years and reaches a peak in the early thirties. In rare instances, people in their sixties have experienced the onset of the disease. Women are more frequently affected than men; the ratio is 3 to 2.*

*About 500,000 people in the United States suffer from multiple sclerosis or other neurological and related disorders. One is Chris Rogers, who teaches first-second grade from a motorized wheelchair at Northwest Elementary School in Storrs, Connecticut, a middle-class university town.*

*Last school year, Elizabeth E. Yeary, assistant editor of* Today's Education, *interviewed Mrs. Rogers, an indomitable woman who seems to fit Matthews' description of the typical victim of multiple sclerosis. They talked about her teaching and her disease and how they affect one another.*

**Do the children ask why you're in a wheelchair?**

Very often, the children will be very

(continued on page 84)

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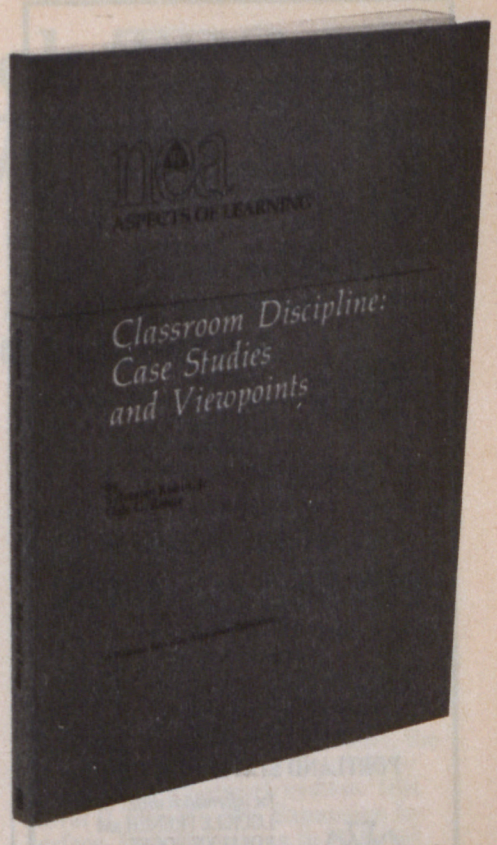


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direct about it. They'll say, "Boy, you're lucky, you can ride around in that little car all the time. I wish I could do it." Or they might ask, "Won't you give me a ride on it?"

The first year I had the chair, I gave the kids rides, but then, last year, I said, "No, because this chair is very important to me. I can't walk, and therefore I need this to get around." And they don't ask anymore.

One little girl was very perceptive about the chair. When somebody said, "Oh, Mrs. Rogers is lucky, she can ride in her wagon all the time," the girl said, "Well, you wouldn't be so lucky if you had to ride in it." Which was very interesting, coming from a seven-year-old.

When I used to walk with a cane, children would want to borrow my cane, and they would kind of hobble around very slowly like I used to have to do. But they don't see this as anything to be embarrassed about, because they're so accepting, you see.

Adults, I feel, are more self-conscious about disability, although being disabled myself, I can usually put people at ease about it, because I've almost forgotten that I'm disabled. If I forget about it, most everybody else does, too.

**Did you have your chair built, or is it one that you bought on the market?**

It is on the market. It's called the Amigo, and it was designed by an engineer in Michigan whose wife had multiple sclerosis, too.

I have one at home and one at school. The janitor very kindly charges up the one at school once a week for me. The chair is electric.

**Do you have any children with disabilities in Northwest School?**

We have two special classes. This year, I have three children from one of the special classes in my dance class once a week. They also go to the library with my class and have lunch with my students.

**How do the so-called normal pupils in your class react to the children from the special class?**

I don't think there's any special reaction. In some ways, I've done some preparation for their coming in. The children from the special class tend to cling together because they know each other. So when they join us for lunch and dance class, I try to be sure that they're scattered among the other children. Now they feel quite comfortable with the class, and they join in the conversation and the activity.

**How long have you been teaching at Northwest School?**

This is my twelfth year.

**Have you always taught first grade or a combination first-second grade?**

I used to teach kindergarten, and then I changed to first-second grade. I have always been in the primary grades, which I prefer.

**How did you decide to become a teacher?**

I attended Cornell University as a liberal arts major. I met my husband, Vincent, there.

He had a lot of teachers in his family. I had always worked with children and liked them. Also, at the time there was a teacher shortage, so we thought that going into teaching was a very practical thing to do. We both got our BA's at Cornell, and then we entered an intensive teacher training program at a nearby teachers college, which put us into the classroom while we were getting our master's degrees.

When we had our family, I stopped teaching for a while.

**How many children do you have?**

I have three. Two girls and a boy. The two girls went to Middlebury College and graduated with honors. Jill has accepted a job as a school librarian in South Royalton, Vermont, and will be working on her master's degree in library science. Robin is teaching at Pine Point school, Stonington, Connecticut, and she's working on her master's at the University of Connecticut.

Evan is a professional musician. He is lead vocalist and percussionist with a band called Too Much, Too Soon.

**Is there a great interest in music in your family?**

I used to play violin. I don't anymore, but my music comes out in creative dance with my students. My husband, who is a professor at the University of Connecticut, is a jazz musician. He plays his trumpet all the time, so I suspect my son gets his interest in music from both of us.

**What is your husband's field?**

Education. He is quite well-known for his work in open education. He and I basically have the same philosophy about open education.

**How long have you had an open classroom?**

I think always, because kindergartens have always been open. Now that I have the first-second combination I find that I like to set the day a little more definitely than I would with kindergarten, but it all depends on the students. I have a pretty strict setup for the school day.

But within this setup, there's plenty of time for freedom, for the child to explore and to grow in art or in reading or whatever by his or her own means. This is very important. If you have a fairly definite setup in the classroom, it makes it easier for the children, because if children have too much freedom, they become confused.

**Are you strict with your pupils?**

I think I am very child-centered, with a demanding approach. I feel that I have to watch the individual child very carefully and the way a child grows and the way a child learns.

I don't like to use the word *strict*; I prefer *demanding*. But I suppose they mean the same thing. I feel that I bend to the individual's needs but I keep a stern exterior. This allows me to be happier because the children behave better. If I am demanding of their behavior and expect courteous behavior and quiet voices, then I can be a happier teacher. So while I seem to be stern at times, that really allows more freedom and happiness in the classroom.

**Reading, of course, is an important part of first and second grade work. What are the key methods or approaches that you use to improve your students' reading?**

It's very important to have an overall approach to reading that includes creative dance, the arts, trips. All of this builds children's backgrounds, their real-life experiences that make reading come alive for them. I encourage children to engage in all these things. I also give formal reading instruction—the alphabet, word building, and so on.

**You mention trips. Does your disability prevent you from going on them with the class?**

Well, last year, I could no longer go on field trips, because they're too difficult for me. So what I've tried to do is to plan little trips with the help of other teachers for the children. I have the




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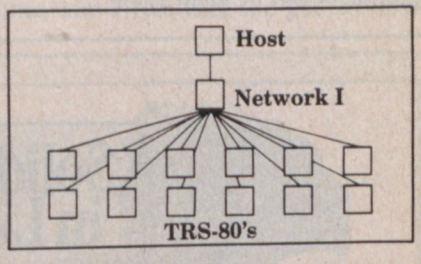


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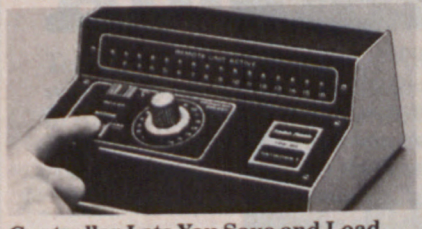

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class do different things that in a way don't substitute for field trips, but make up for them in some way. For instance, we had a plant sale, and with that money, we bought shrubs for the school. Instead of having the whole class go to buy the shrubs, we had five children and another teacher go to buy them. They brought them back for the children to see and enjoy. Then the janitor helped us plant them.

I'm not sure that these little trips are not better than a class trip anyway. When the kids go in a large group, it's like a mob scene sometimes, and I've been skeptical about how much children see and learn.

**Do you read regularly to the children?**

Yes, yes, I feel that's very important to the reading process. Every day, either my aide or I read to them.

**Which stories get children excited about reading?**

Dr. Seuss. All his stories. And E. B. White's *Charlotte's Web* and *Stuart Little*. Let's see, the Babar stories are always favorites.

What is important, though, is to read good quality literature to the kids.

**You mentioned your aide. Do all the teachers in your school have aides?**

Everyone doesn't have a full-time aide as I do, but we have three aides in the school whose time is shared by the other eight teachers.

I have a full-time aide, because my disability became more serious, I needed help in my classroom. So the board of education made arrangements to have a special aide for me.

**Will you elaborate on the creative dance class that you include in your activities with the children?**

Well, we go to the gym, and I bring the record player and a drum. The children take off their shoes and stockings.

I usually begin the lessons with some kind of drum rhythm, and the children respond to the drums. If I produce a walking beat, they walk. Periodically, I ask the children to freeze their position—to do a body hold, to pretend to be a statue.

I have the children walk, run, skip, gallop to music. I use different records or different drumbeats for different movements.

**Do you give the children a lot of direction?**

No, not really. If I see a child responding in a way that I think is beautiful or appropriate to what I'm playing, I'll say, "Everybody stop. Let's see Christian do this" or "I like what Christian is doing." I do this so that the children will look. Then they all move in their own way. After the class does this all year long, they become very responsive and they forget themselves.

**What is your goal in teaching dance?**

Well, one reason I teach it is because I love it. I used to be a dancer. This is one way I can express my interest in music. So it's satisfying for me, but I can see it's just as satisfying for the children.

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this aesthetic area. But I also feel that what we do in dance can't help benefiting the children in academic subjects.

I give the children a lot of verbal instruction. They have to listen to the instructions and then physically act them out. In addition to that, they're listening to the music, and they're learning to be responsive to that. They're developing their listening skills.

**You say you used to be a dancer. Did you go to dancing school or take dance at college?**

I had always been interested in dance and liked it from the time I was a little girl. I used to do tap dancing and ballet and modern dance. I also used to teach dance to adult groups at the University of Massachusetts.

I would not say that I was a great dancer, but I always had the "gift," and I moved nicely.

**Were you a great sportswoman?**

I was always very agile in sports. I was a good tennis player, not a great one, but a good one. My husband is a tennis buff, and I enjoy watching him play. But I miss playing, that's true. I accept that I cannot, but I miss it anyway.

I am still able to swim. I still dive into the water. When I come out of the water, I get a minor remission, which builds up my energy, and I'm able to function more efficiently.

I used to ride horses. So sports was just a fun thing all through the years. And that's why when this began to happen, I couldn't understand because everything had always been so easy for me.

**In what ways have you had to adjust your methods or your approach to children as a result of your handicap?**

I had to learn to teach all over. When I first realized that something was happening to my body, it was a very scary thing, because I didn't understand it.

For a while, people didn't understand, since I didn't understand myself what was going on. I began to be less able physically because I would tire so quickly. And then, of course, I started to compensate for it and say, "I can't do this, and I can't do that."

Well, anyway, I went through a time when life was very difficult. But during all this time, I was so motivated to teach that I'd let nothing stand in my way. And so I sought psychiatric help. This was one of the big things that helped me and the children and of course the school system.

There was a long period when the multiple sclerosis was not diagnosed. All that time I didn't understand what was going on, and I thought that it was just me.

I'd been to doctors, but doctors never want to diagnose multiple sclerosis until they're absolutely sure.

**Because there isn't a foolproof test.**

No, there isn't.

**Is it a painful disease?**

Well, it can be, especially if you're tense or if you've overworked. But generally speaking, I'm not in any pain while I'm teaching.

**Do you go to a doctor regularly?**

I went to the psychiatrist for a long time, and I feel that she got me over


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the difficult part of accepting what I have and realizing that if you've got something like this, best not to dwell on what might have been.

I have a neurologist, and I saw him recently for the first time in six years. I had a checkup, and he thought I should take some Valium at night, because I do get very tight and spastic. But I do not want to take any medicine, because I feel that the medicine throws my whole system off. I figure I should just live with the tightness and try to cope.

**What were your earliest symptoms? Double vision?**

No, no, I never had any double vision, and luckily no speech problems. I do suffer from fatigue, which is one of the greatest problems, but with the chair I'm able to do everything.

**When did you first start noticing the symptoms?**

About 10 or 11 years ago. I would first notice it at night when I came home from school. My legs would feel numb, and I couldn't understand why.

Then I'd function all right for quite a long while, and then I'd seem to reach exhaustion, and I would have trouble walking. I'd rest, and then I'd feel all right. But if I were teaching for a long period of time, I would find—oh, I just can't stand it, I've got to sit down. And that's how it came upon me.

So this gets back to your question about adjusting my teaching method. I had to learn to direct verbally a lot of the activity that I had always done physically.

When I had the cane, I couldn't go over to a disruptive child quickly and put my hand on his shoulder or touch him in any way, because I couldn't get there in time. So I had to learn how to get the child to come to me.

Now, I hope there aren't going to be any more changes in my physical condition, so that I can continue to operate from this vehicle and get around the school.

Another great adjustment, of course, is learning to work with an aide, learning to help her understand things the way I understand things. What can happen is that I spend most of my time trying to help the aide to work with children. So working with more people presents more problems.

**How are your relationships with the staff?**

The staff members have been wonderful. They are very helpful and, I think, very understanding of my disability. But on the other hand, I feel that I'm just like anybody else.

For a while, when I first came to school with a cane, I'm sure people said, "Oh, she'll never last, she'll go downhill fast." Maybe I think that I said this because I felt this way, I'm not sure.

I have the feeling that people were being especially nice to me because they thought I was in my last days of teaching. But then they began to see, "Oh, her last days are lasting longer and longer and longer." So that now, I think they consider me just a regular teacher.

**Does the staff question you rather freely about your disease?**


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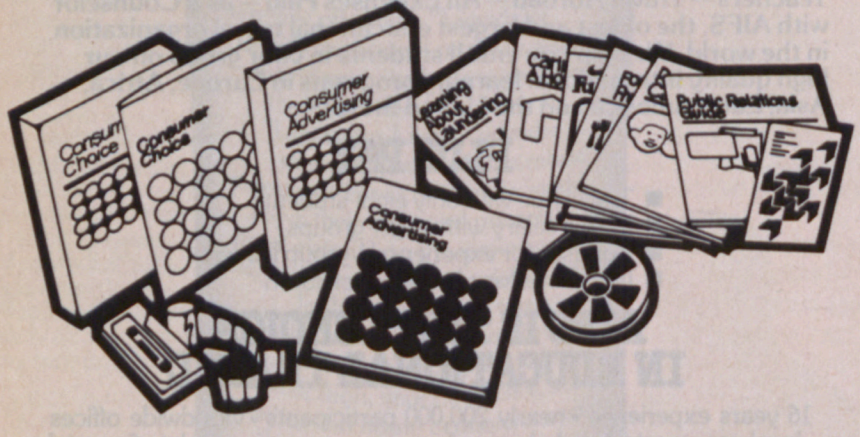


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Well, there's nothing really much to question. Sometimes I'll talk about it. I'll say, "My body feels tight today. Had a tough day." But I'm usually here all the time. It's rare that I'm sick. I'm probably more healthy than most—if you disregard the multiple sclerosis.

I'm sure the staff here knows more about multiple sclerosis than most other people because of me.

**In his book, *Spirit Makes a Man*, Joseph Panzarella, who is a doctor of rehabilitative medicine and a victim of multiple sclerosis, says, "I always felt the more visible a handicapped person was, the easier it would be for society to be comfortable with the disabled. I made it a practice to attend meetings and conventions where there would be other doctors who were not aware of the disabled."**

**How do you react to that? Do you attend teachers' meetings and conventions?**

This is something that I would like to do but find very difficult to do, because places are not set up for disabled people. I can't depend on whether a place will have a toilet for handicapped people and if it will be at a level where I can get to it. I can't depend on there being a ramp to get me where I want to go.

So it's a problem. As far as being seen, that's the least of my problems. I'm delighted to be seen.

**Are you involved in any civil rights groups for the handicapped?**

No, I try to relate to most people on a daily basis, and I don't identify with other handicapped people. It probably goes back to my belief about homogeneous grouping in school. I do not think that homogeneous grouping of bright, gifted, slower children or any kind of grouping on the basis of sameness is good. I believe in a mixture of all kinds of people of all kinds of intelligence and all kinds of abilities.

**But you wouldn't band together with them to help maybe get buildings changed or—**

Well, I have a full-time job, and I don't have the leftover energy to do this. But it certainly needs to be done by somebody, preferably somebody who is not handicapped.

I am a member of the National Multiple Sclerosis Society.

**Do you find that a valuable organization?**

Yes, they're very helpful, and they're very conservative, with reason.

**When you say they're conservative, what do you mean?**

Well, they're very conservative in their reporting of research. For instance, they don't report research that raises false hope. You may find such reports in popular magazines, however.

**Then I wonder what your reaction is to a recent spate of articles on multiple sclerosis in the popular press, *McCall's*, *Saturday Evening Post*, and *Good Housekeeping*. Now, these may reflect, of course, the media's recent interest in the handicapped.**

**Do you welcome that kind of interest?**

I think that's good. But one must always think about the source from which a report is coming. When it comes from a popular magazine, I read it with interest, but skepticism.

I always love to read articles about people with multiple sclerosis, just to compare notes. They're usually inspirational and hopeful.

**People who have handicaps need supportive people around them. Do you agree?**

I have supportive people around me.

The whole school system—the superintendent, the teachers, the principal, and the janitors. (This reminds me of the TV Emmy shows, you know, you don't want to leave anybody out.)

But my husband really is the one I must give the credit to. We've been married for 31 years. It's just like the marriage vows say—for better or for worse. But we seem to—at least we try to—look at the positive side of life and try to make the most of what we have.

And if you really stop and think about it, if I didn't have the disease, I'd have everything—three lovely children and a handsome and successful husband, two lovely homes, and a teaching career that I love. So if I could just get rid of the disease, I'd have it made. But I don't like to dwell on getting rid of it—that's not a possibility.

**Some observers say the handicapped are the most discriminated-against group among the minorities. Although they have made great gains in eliminating physical barriers, they still have many invisible barriers to overcome—barriers of ignorance and fear, intolerance and indifference that have blocked them from assuming their rightful place in society.**

**What is your reaction to that?**

Well, I think it's probably right. And even though the laws have changed, a lot of the physical blocks still have not changed, so that you can't always go to the theater or you can't always go shopping. But with the changes as a result of the new laws, you will begin to see more people coming out. They will begin to show themselves; they will begin to have courage, because they know they're not going to have to be locked up in the closet, so to speak, any more.

**What about teachers who now, as never before, are facing children with different types of handicaps in the classroom? What's the charge for the profession there?**

There has been a lot of talk about trouble with mainstreaming handicapped children. But teachers are going to find that the so-called normal children are very accepting. They love to help me, and they love to help a new child in the class.

A teacher must open her heart and her ears to the needs of handicapped youngsters. But the normal children in the classroom will be a big help. This is not to say that I don't think that teachers should not have adult help to give them support—because they will be anxious and fearful of having a handicapped child in their class. They will fear that they won't be able to cope. So they are going to resist. First, they've got to be made to feel secure that they can cope with this youngster, that this youngster isn't going to demand all of their time and attention.

**Do you think teacher training institutions need to institute courses to introduce teaching candidates to different types of special children whom they may—**

I think more disabled students should go to college. If colleges and universities make it physically possible for disabled people to go to school, special classes in learning about the disabled will not be needed.

I'm not talking about extreme cases. I don't know how you'd be able to mainstream an extreme case. This would have to be done on an individual

basis and with the teacher's consent and agreement.

**Dr. Panzarella says that he has found, with almost every patient that he has worked with, and especially with those patients who have suddenly become disabled, that almost universally, the question Why me? plagues them. Did this happen to you?**

Well, this is why I went to a psychiatrist. I really don't wonder about Why me? too much now, though, because I think that life is a gamble. I'm the one in thousands who got it. I don't think that anybody put a finger on me and said, "You deserve it."

It's really just something that happened. And, naturally, I wish it hadn't. But I don't really stop to think about it. I'm doing what I want to do, and I enjoy teaching.

**You've always enjoyed your teaching. Do you find you enjoy it more now?**

I appreciate teaching more. I miss it so much sometimes when I'm away from the classroom.

When you work with children, they're constantly bringing you new ideas and new material. They have a freshness about them that is always inspiring.

You get your energy or your creative force from the children. And so I probably appreciate teaching more because of the disability. The job is always a challenge. Probably because of the disability, I see it as even a greater challenge. □

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# Classroom Tips

By JANE TYLOR FIELD
*Retired Teacher of English and Creative Writing, Chula Vista, California.*

*These are suggestions made or collected by Ms. Field, and she urges NEA members to send in interesting and useful teaching ideas for possible use in future issues of* Today's Education. *Ms. Field asks that those who submit classroom tips keep copies of their material, as she cannot return the originals.*

*Mail suggestions to Box CT,* Today's Education, *1201 16th St., N.W., Washington, DC 20036.*

One of my most vivid memories is of time I spent in the Fresno city jail when I was a teenager. Inmates whistled, rattled the bars, and made obscene remarks.

What was I in for? My high school civics class was making a survey of government institutions, the jail being one. Later, when I became a teacher in a small town, I walked my own civics classes to local institutions—the city council and the county court. We saw government in action.

Getting students out of the classroom and into the community for instructional purposes is seldom easy. But the rewards of such three-dimensional education are often lasting. Here are some suggestions for using the community as an adjunct to the classroom.

• Art or mechanical drawing classes can eye and try to sketch typical and atypical architecture, both residential and commercial, of the community. They might also try to visualize areas without billboard blight, if that is a local problem.

• Photography classes or clubs might collect a portfolio of photos of gates, doors, windows, fences, gazebos—and even trash.

• Home economics classes can observe the techniques of institutional cooking, in their own schools for starters; then in hospitals, hotels, restaurants, and, yes, the jail. They can also observe food handling at the zoo. The inhabitants there are probably fed more nutritiously than most human beings.

• Economics students might prowl a supermarket after hours, going behind those doors marked Employees Only to view the unpacking and pricing of merchandise. Out front, they can observe the restocking of shelves.

Food is big business—from farming to distributing foodstuffs to publishing cookbooks to managing fast-food outlets. Canning factories, packing sheds, farmers markets (early in the morning)—all could be worthwhile destinations for economics students.

Before starting out on any field trip, teachers should prepare students for what they are going to see and hear, and why, so that they will be able to ask intelligent questions. After the trip, written thank-you notes to those persons who assisted the class on the trip may make the next student group even more welcome than the last one.

Another project that involves analyzing a community's economic life is an informal survey of the gains women have made in getting jobs once held by men only. Have students ask their parents and grandparents about this. Do they remember when only boys and men sold popcorn at the ball park? Worked on phone lines? Delivered milk and newspapers? Bagged groceries? Worked as police officers, mail carriers, fire fighters?

Have students survey local businesses and industries to gather statistics on the changes in the ratio of male to female workers over the past 25 years. Have these businesses and industries instituted affirmative action plans? Why or why not?

Science teachers who want to use the community as a classroom might delegate students to find out if local citizens and institutions are using solar energy. Besides counting clotheslines (formerly *verboten* in some housing complexes but now making a comeback), students can find out how many solar collectors are in town or in one area of town. Are they on old or new buildings? What do builders and users have to say about efficiency and costs of these collectors?

Here are two more suggestions for combining town and gown, to be fancy about it.

• Now that walking is *in*, perhaps a civics or geography class could prepare maps showing walking tours of the local area. If the area includes a number of scenic, historic, or economically important sites, and if students do a first-rate job, such maps could even be money-makers. Tourists appreciate accurate directions for safe, scenic strolling. So do natives, for that matter. The chamber of commerce, information bureaus, campgrounds, motels, and supermarkets are all possible map retailers.

• If a botany class prepares such a map, students might identify the town's outstanding floral specimens on it, giving the approximate ages and origins of trees. People like knowing the names of flowers but somehow often don't—not even when the people and the flower are living on the same lot.

What's a science teacher to do when assigning lab pairs? Match up friend and friend? Cheerleader and athlete? Dummy with ditto?

"The worst plan," says Robert Heyer, ninth grade physical science teacher at Johanna Middle School, St. Paul, Minnesota, and 1975 National Teacher of the Year, "is to let students choose their own partners. We know who are left-over: the shy ones or the low achievers, their feelings hurt again."

After much trial and error, Heyer has decided that the best way to assign lab pairs is to give each student a number and use the numbers to match each student with every other student in the class for a few days during the year. The intellectual will learn from the jock. The boisterous boy will gain from the quiet girl. Of course, two boisterous boys could blow up the place, but they might anyway.

Writing a pretend Dear-Abby letter helped the students of Christine B. Kindl at Homer-Center Junior High in Homer City, Pennsylvania, understand the timeliness of *Romeo and Juliet.*

Each student wrote to Dear Abby pretending to be a character from the play. Many were Romeo or Juliet ("Dear Abby, I am 14 and in love, but my parents don't understand how I feel."). Others described the dilemma of the friar ("Should I marry these kids without telling their parents?"). Still others posed as minor characters ("Dear Abby, I have a friend. . . . "). All letters closed with requests for advice.

Students then exchanged their letters, became Abby, and wrote sugges-

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tions for solving the problems.

The assignment illuminated Shakespeare's relevance for contemporary youngsters. It also served as a review of letter-writing form and, for those who tried to imitate Abby's style, an introduction to parody.

Colleen W. Haskell relates literature less to the psyche and more to the stomach for youngsters in her Tasty Literature course at Jonesport-Beals High School in Jonesport, Maine. Thanks to a Title IV grant, students sample classics ranging from *Oliver Twist* to Russian short stories to German novels. After they deal with each selection cerebrally, they repair to a food center and cook a dish in keeping with the text, such as Yorkshire pudding, Russian blini, or German kuchen, the better to savor their analyses.

For more details, write to Ms. Haskell or Ms. Nancy Vasquez at the School (ZIP Code 04649).

At Edgemont High School in Scarsdale, New York, John Weiner has another approach for getting young people to enjoy reading. For several years he has been maintaining a completely free library in his classroom.

A devotee of garage sales, estate auctions, and flea markets, Mr. Weiner has long been amazed at the tiny prices such enterprises charge for books. When his principal, Joseph Doohan, asked that teachers encourage students to read more, Mr. Weiner began to accumulate what has developed into a library of 5,000 volumes, paper and hardback, from Azimov to Zola.

Eventually Mr. Weiner added magazines such as the *New Yorker*, *Time*, and the *National Geographic*. (He has had some financial help from the Edgemont Board of Education and from an anonymous donor.)

No one checks out the books or magazines from Mr. Weiner's library or has to bring them back if he or she doesn't want to. (Obviously many do.)

When a student said, "Look at the great pictures in this book. How can I get them for a report I'm doing?" Mr. Weiner answered, "Take the book home and cut them out." He feels this policy has cut down on the theft and mutilation of books at the school.

Mr. Weiner also feels that interest in his collection has increased the circulation of books and periodicals in the school's official library. "The kids will look for a book by Agatha Christie, say, and if they can't find it here, they'll go looking for it in the school library."

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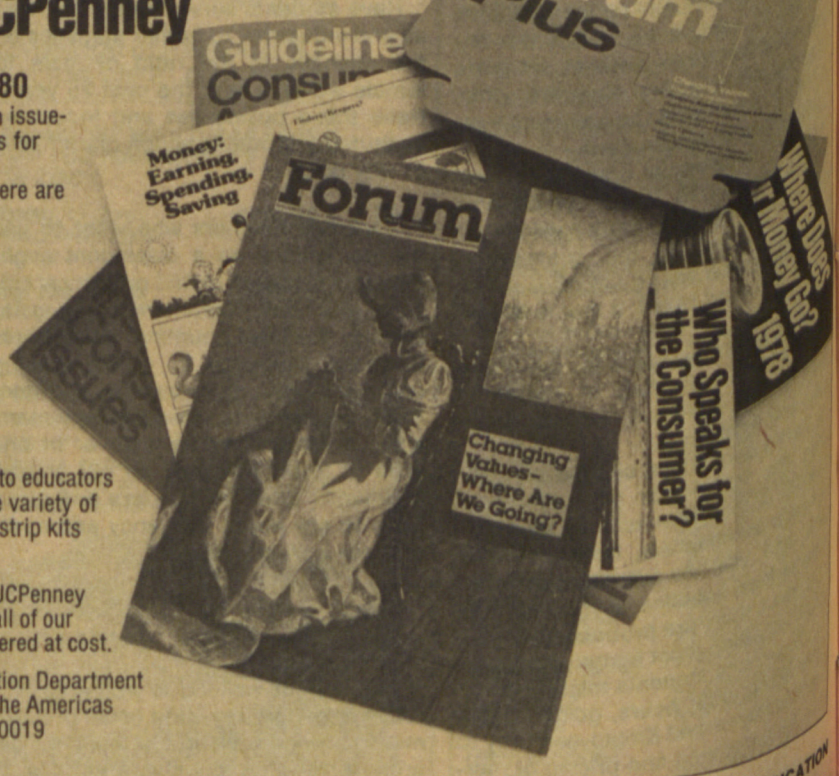

# A Teacher Guide to 3 ABC Afterschool Specials

Heartbreak Winner: One Girl's Struggle for Olympic Gold, February 13
Where Do Teenagers Come From? March 5
What Are Friends For? March 19

Featuring Highlights of the New Weekend Specials
The Puppy's Amazing Rescue, January 26
The Gold Bug, February 2 & 9
The Trouble With Miss Switch, February 16 & 23

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# 3 ABC Afterschool Specials

## Heartbreak Winner: One Girl's Struggle for Olympic Gold

**February 13**

To win a coveted Olympic gold medal is a dream many young athletes share. The ABC Afterschool Special, HEARTBREAK WINNER: ONE GIRL'S STRUGGLE FOR OLYMPIC GOLD, based on a soon-to-be-published novel by Michael Bonadie, is the story of one young figure skater's determination to qualify for, and ultimately capture, the world's highest honor in her sport. It is also a story of defeat and disappointment, and of learning to understand better what victory and accomplishment really mean.

Sixteen-year-old Maggie MacDonald is a dedicated skater who not only has the drive to make it to the top, but also the talent to become a gold medalist. She is encouraged and supported in her ambition by her parents, her friends, and her coach, Mitch Parks. Under the pressure of preparing for the sectionals, however, Maggie begins to change; her friends and coach notice that her determination is now laced with a fierceness that makes her irritable. At times, Maggie appears to have something physically wrong with her, although she denies that any problem exists.

Her performance on the night of the sectionals is spectacular, up until the last seconds of her routine when she collapses, succumbing to the pain she has been hiding all along. The diagnosis of her problem is a grim one: Maggie has juvenile rheumatoid arthritis. The prognosis is especially jolting for Maggie whose nickname is "Miss Perfect" and to whom "anything less than perfect just isn't acceptable." Although she will live a fairly normal life and will even be able to skate again, her days of competitive skating are over. Bitter, hurt, and angry, Maggie refuses to accept the reality of her situation at first. Through the support and unrelenting efforts of others, including Joey Taylor, a young patient she meets while in the hospital, Maggie learns that the joy of giving and sharing with others is more important than winning a gold medal.

QUESTIONS AND ACTIVITIES

1. (a) Ask students to discuss the following questions about the sacrifices that Maggie is willing to make to achieve her goal: Have you ever wanted to achieve anything as intensely as Maggie? Do you feel that such achievement would be worth the sacrifices involved? Have students share their answers with the class. (b) Suggest that students read biographies of such Olympic athletes as Jim Thorpe, Dorothy Hamill, or Olga Korbut. Have students discuss the various roads these athletes followed to pursue their goals.
2. Discuss with the class to what extent attitude should be considered in the pursuit of excellence. Why does Mitch feel Maggie's present attitude would disqualify her from consideration by the Olympic Committee? What does Maggie have to learn about success and failure? How does her encounter with Joey Taylor help her to learn this?
3. Ask students to write a short paper discussing how athletes entering a competition can prepare themselves for the possibility of *not* winning. Suggest that students read William Buchanan's *A Shining Season* (NY: Coward, McCann, & Geoghegan, Inc., 1978) about runner John Baker's confrontation with disease.
4. Have students research the disease juvenile rehumatoid arthritis. What are its causes? Its characteristics? What restrictions, if any, are placed on its victims? How common is the disease? What scientific research has been done on this disease?

## What are friends for?

**March 5**

Twelve-year-old Amy Warner experiences a trauma many other young Americans and their families also face. Her father and mother are divorced, and to com-

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pound the hurt for Amy, her father has remarried. The ABC Afterschool Special, WHAT ARE FRIENDS FOR?, is adapted from the Mildred Ames novel of the same title. It explores the hurt, confusion, and hostility which Amy experiences; the way this affects her relationships with her peers; and the way she learns to accept and cope with her situation.

After the Warner's divorce, Amy and her mother move to a new area. In making new friends, Amy is initially attracted to Michelle Mudd, a young girl whose parents are also divorced. Amy's search for stability and for a dependable friendship leads her to make a pact of lifelong friendship with Michelle. Amy also begins to enjoy the company of two other girls, Barbara and Nora, but Michelle interferes, claiming that Barbara is prejudiced against "divorced" people.

Blinded by anger and hostility toward her father, to whom she refuses even to speak to on the phone, and by her desperate search for loyalty, Amy does not see how Michelle is using their "friendship" for her own purposes. Amy is supportive of Michelle even while sensing that Michelle's behavior and life-style are often a bit strange. When Amy innocently becomes involved in Michelle's habitual shoplifting she realizes that friendship cannot be built solely on a ceremonial pledge. In spite of the shock of learning the truth about Michelle, she finds she still has compassion for her friend. For the first time, Amy's mother's attempts to explain the causes of the divorce begin to be clearer to her. Amy can finally understand that her father still loves her and, more important, that she still loves him.

QUESTIONS AND ACTIVITIES

1. Throughout the story, the words "loyalty" and "commitment" appear many times. Have your students consider the following: (a) What do the words "loyalty" and "commitment" mean? Compare the two words and their meanings in relation to friendship and marriage. Is commitment more important to a relationship than loyalty? Explain. (b) Using examples from the program, discuss the following questions: Does Michelle's view of loyalty differ from Amy's? If so, how? How does Amy's experience with Michelle help her to achieve a more mature understanding of the concepts of loyalty and friendship? How does this help her to relate to her father once again?
2. Have students write an essay discussing what the word "friendship" means to them. Instruct them to consider not only what they expect *from* a friendship, but also what they should contribute *to* a friendship. In the same essay, have them discuss what they think the value of friendship in marraige is.
3. Ask students to discuss the relationship between Michelle and her mother, referring to scenes from the program. In what ways does Mrs. Mudd contribute to Michelle's problems? What does Michelle's shoplifting indicate about her needs and her feelings? Is this in any way an outgrowth of her feelings toward her mother and father? Explain. Have students compare Mrs. Mudd and Mrs. Warner. What different standards and values do they represent? Have they passed these on to their children?

# Where do teenagers come from?

**March 19**

The road from childhood to adulthood is rarely smooth and easy. The biological and emotional changes that occur at this time, make adolescence a particularly tumultuous period. How well prepared the individual child is in understanding and accepting these changes will determine the degree of frustration and awkwardness which are said to be hallmarks of this stage of development.

In WHERE DO TEENAGERS COME FROM?, the ABC Afterschool Special sequel to WHERE DO BABIES COME FROM?, we meet, once again, Kelly Driscoll, now age 13, and her friends, Oscar and Pete, as they enter the new world of junior high school.

Until now, Kelly's life has been happy-go-lucky and uncomplicated. Kelly approaches junior high school in her typical, offhanded manner, with only a trace of uncertainty. Before the end of the first week, however, she becomes acutely aware of marked changes in her peers, without recognizing similar changes in herself. Her friend Pete becomes susceptible to the charms of the opposite sex, and Oscar understands and supports his behavior. Kelly feels that even her girlfriends betray her when, at her slumber party, they learn new dance steps from Julie, her older sister. Both these developments upset Kelly, who finds herself angry at Pete's new interests and provoked by her feelings into an open show of hostility.

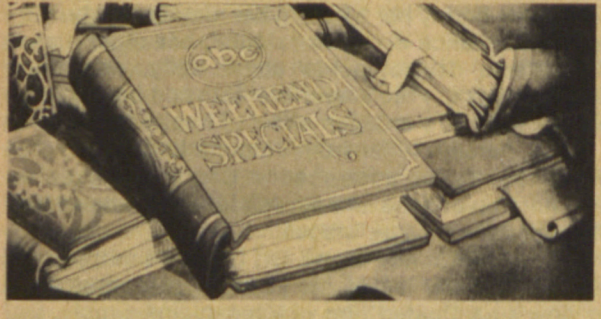
Kelly, herself, is far from immune to changes that may occur during adolescence. She is embarrassed by a flare-up of acne and devastated by the news that she will have to wear braces.

Family doctor and friend, Dr. Lendon Smith, aware of the dilemmas facing the youngsters, invites them to view an animated film which explains simply, and sometimes humorously, the changes young people experience at this stage of their lives. With a better understanding of why she and her friends behave and feel as they do, Kelly finds greater tolerance for her own problems.

QUESTIONS AND ACTIVITIES

1. Puberty and adolescence often seem unbearable and endless. Later in life, these difficulties may not be vividly remembered. (a) Ask the students to interview individuals in their early 20's, asking them what they remember as difficult about their years as adolescents. What were their major concerns then? What are they now? What pressures regarding their appearance, social life, and parental and peer expectations do they remember? (b) Have students repeat the interviews with their parents. Did their parents experience different attitudes and concerns than

adolescents do today? Have students share their findings with the class.
2. Have the class make up a reading list, with each student anonymously contributing the name of the book he or she is now reading. How wide a range of interests does this list cover? Have students discuss what the list shows about the interests of the class at this stage of their lives.
3. Ask students to keep a "mood chart" for one school week. Instruct them to record the various emotions they experience each day during the week. Do they feel that being objective about their moods helps them to cope better with them? Have them explain their answer. At the end of the week, select one of the moods and write a poem or short essay about it, using as many descriptive words as possible.
4. Ask students to write a paragraph describing their relationship with an older brother or sister or an older friend. Instruct them to answer the following questions: What characteristics do they share with the person they are writing about? What characteristics do they admire in him or her? According to what students have learned about themselves in this special, do they think any of these feelings may change in a few years?
5. Have students define the following terms: (a) "puberty," (b) "adolescence," (c) "glands," (d) "sebaceous glands," and (e) "hormones."
6. Discuss with students why friends are so important to them and what the term "friendship" means to them personally.




# Weekend Specials

## The Puppy's Amazing Rescue
**January 26**

Based on an original script, this sequel to THE PUPPY WHO WANTED A BOY, follows the further adventures of an heroic puppy named Petey. Petey, his boy Tommy, and Tommy's adopted parents are on a camping trip when disaster strikes, and Petey is separated from his loved ones. This resourceful puppy faces endless trials and tribulations in his valiant attempt to rescue Tommy and his family.

QUESTIONS AND ACTIVITIES

1. Have students write a short story involving an animal in an heroic adventure.
2. Have students read: *Dog of Bondy Castle* by Lynn Hall, *Kildee House* by Rutherford Montgomery, and the *Lassie Come Home* series by Eric Knight.

## The Gold Bug
**February 2 & 9**

Set against a background of the post-Civil War South, this television adaptation of Edgar Allan Poe's short story is a study of the mysteries of the mind and the subtleties of obsession. A young boy, innocently exploring an island, encounters a strange hermit, LeGrand, and his terrifying mute companion, Jupiter, both of whom are searching for treasure. The boy is drawn into their quest when he inadvertently discovers the map of Captain Kidd and is caught up in their fever to find the treasure.

QUESTIONS AND ACTIVITIES

1. Have students write their own versions of what happened to LeGrand and Jupiter while the boy is away from the island. Ask the students to keep within the style of the storyteller.
2. Have students read several other Poe stories, such as "The Cask of Amontillado" and "The Black Cat." Compare the plots, outcomes and themes of these stories with those of "The Gold Bug."

## The Trouble with Miss Switch
**February 16 & 23**

From the first day of school, Rupert Brown thinks that the new teacher, Miss Switch, has some very strange habits. With his classmate Amelia, he decides to investigate. Miss Switch, it seems, is a real witch, but, a good one, who is being persecuted by the evil Saturna and her Computo-witch. To avoid a frightful banishment, Miss Switch must produce a new and unique use of her powers.

QUESTIONS AND ACTIVITIES

1. According to Rupert, Miss Switch is sometimes nice, sometimes nasty, but *always* fair. Ask students if it is important for teachers and students to be fair with one another. Discuss with the class relationships where fairness plays an important role, for example, between a coach and his team.
2. Rupert believes that there is an explanation for everything, but Miss Switch claims the world will always contain mysteries. Ask students if they believe there will always be a little fantasy in their lives and discuss with them the continuing popularity of fairy tales.
3. Discuss Miss Switch's statement that "more important than a good teacher is a good student."

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# TEACHERS SELL COOKBOOKS TO PAY FINES

**NORWOOD, MASSACHUSETTS**—Teachers in New England are working hard to raise money to pay fines that originally totaled more than $1 million.

The heavy fines were imposed on two local education associations following lengthy teacher strikes in Bridgeport, Connecticut, and Fall River, Massachusetts.

Teachers in Bridgeport at first faced fines totalling nearly $1 million, but following negotiations between the association and the board of education, under the auspices of a court-appointed judge, the fines were reduced to $196,000.

"The reduction of the amount of money the BEA must pay has lifted an enormous burden off of us, and we are extremely pleased with the way the problem was resolved," said association president Arthur Pechillo, who led the BEA on a 13-day strike. "But," he added, "while the amount is substantially less than what was originally imposed, it is still a large debt for teachers to pay. We still need the support of our colleagues in New England and throughout the nation."

The Fall River Education Association last spring was ordered to pay $260,000 in fines for ignoring a back-to-work order during a 1977 strike.

Money is being raised through the sale of cookbooks by the New England Teachers' Trust Fund, which is administered by two teacher volunteers: Jack Cook of Massachusetts and Philip Garovoy, immediate past president of the Connecticut Education Association.

"These moneys must be raised," they said. "The fund-raising efforts have been strenuous and will continue until no deficit remains. Only through the united, coordinated, and empathetic efforts of every state and local association will we be able to pay these exorbitant fines."

The cookbook—"What's Cooking in New England"—contains 95 pages of recipes gathered by teachers from their family kitchens. The recipes range from Cape Cod stuffed quahogs and Yankee Noodle Dandy to Maine stuffed lobster.

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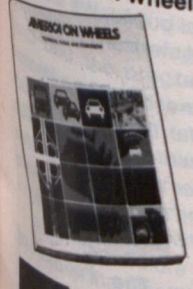


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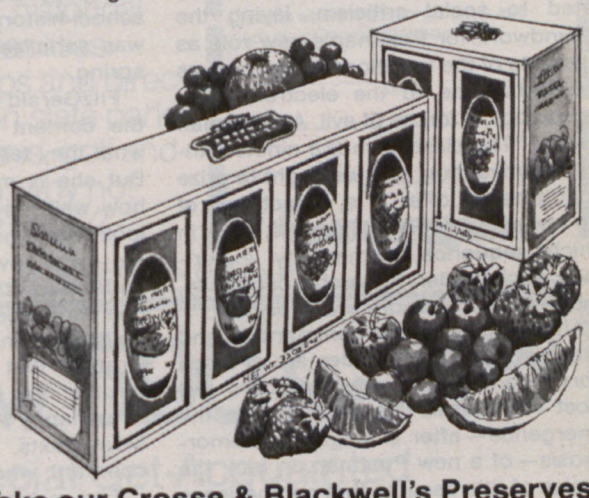

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# Books

***Teaching as a Conserving Activity*** by **Neil Postman.** Delacorte Press. 236 pp. $9.95.

Another book is out involving one of America's favorite intellectual preoccupations—telling us what should be going on in our schools. Since this one is written by Neil Postman, it deserves more than the average amount of attention from teachers.

In *Teaching as a Conserving Activity*, Postman provides a short history of the radical movement in education as a preface to a lengthy attack on television, which he calls the "First Curriculum." A fair portion of the book is dedicated to social criticism, laying the groundwork for Postman's new role as advocate of the traditional classroom as counterbalance to the electronic and technological forces of evil. As Postman puts it: "The classroom *is* a nineteenth-century invention, and we ought to prize what it has to offer. It is, in fact, one of the few social organizations left to us in which sequence, community experience, social order, hierarchy, continuity, and deferred pleasure are important."

Although the social commentary and analysis Postman provides are at times worth considering, what readers will most react to in this book will be the emergence—after a lengthy metamorphosis—of a new Postman. In fact, the choice of title assures that comparisons will be made to *Teaching as a Subversive Activity*, which he coauthored with Charles Weingartner in 1967.

Encouraging such comparison may have been a way to meet the inevitable head-on, but it also exposes the weakness in *Teaching as a Conserving Activity*. The weakness is not, as one might expect, a political or philosophical one. It is the prose—not the politics—that makes this book shallow compared to its predecessor. It hurts to see the once practical Postman wax awkwardly philosophical. In his effort to create an intellectual superstructure for the changes he has gone through, he has lost touch with what goes on daily in public schools throughout the country. Rather than a teacher encouraging other teachers to show their students how to be "crap detectors," we now have a professor telling us that "analogical forms of information are systems of codification which have a real and intrinsic relationship to what they signify."

As commentary on television, the book is interesting. As commentary on education, one can only hope that this is one of those books that had to be written to get it out of the way and that it is not an indication that, having stormed the ivory tower, Neil Postman has found it to his liking and settled in.

*Reviewed by* **James D. Kraft,** *sociology teacher, Wausau West High School, Wausau, Wisconsin.*

***America Revised: History Schoolbooks in the Twentieth Century*** by **Frances FitzGerald.** Little, Brown. 240 pp. $9.95.

Frances FitzGerald begins *America Revised* by noting how greatly changed American history textbooks are today from those she studied from in the 1950's. This observation introduces her sweeping history of the nation's high school history textbooks, most of which was serialized in the *New Yorker* last spring.

FitzGerald is primarily concerned with the content of these textbooks, with what they tell and what they do *not* tell. But she is much concerned, too, with how well they tell it. She takes a hard look at authors, editors, and publishers—and how they work together—and finds much that she does not like. For one thing, she finds it disturbing that the textbooks change so much so quickly. Granted that in our unsettled times old "truths" are seen in new ways, she still is unhappy about "slippery history." Many texts, she says, do not give a coherent, whole view.

Too many textbooks offer little real intellectual fare. She sees them, in fact, as shaped by movements which are fundamentally anti-intellectual. Tracing the many curriculum reform movements, she asks why they all have been "so intellectually reductive." Whatever the answer, textbooks show the results. History, as an intellectual discipline, is lost or at best warped by being used to serve confused, ill-defined purposes, such as molding character rather than mind or demonstrating "relevance." (In this section, she shows an unerring sense for identifying hot air, however weightily stated.)

She finds neglect of economic history, though some exceptions are noted. (It is good to see the Harold Rugg series saluted.) She finds neglect of social history and foreign affairs, too—and her use of the latter term covers more than the traditional meaning. In this connection, she raises an important point: Are textbooks cast in the established mold of *national histories* simply outdated?

So far, so good—but there are some objections to be raised. For one thing, FitzGerald clearly assigns the textbook a central, and indeed determining, role in the history course. But the same textbook in the hands of two teachers may lead to very different ends and by quite different paths. It is not the only tool in the history classroom; there are the reference works, the audiovisual aids. There is, or should be, guided reading of the kind Henry Johnson called *collateral* reading. How the history teacher uses the textbook in the mix of materials is an important question. FitzGerald does not deal with it.

Moreover, no textbook is so final in setting a student's view of history as FitzGerald would have us believe. Students do see *Little House on the Prairie* but they do take other history courses. Some continue reading about history all through their lives.

In addition, FitzGerald is really too critical of editors and publishers; her examples are chosen to her purposes. There are good editors and publishers, even great ones, who respect both authors and authors' works. In any event, what is the alternative? In the 1960's government funded development of textbooks, in several subjects, with at best limited success. Her comments on the materials developed by Edwin Fenton and others are instructive here. And there remains the basic question of whether we want government to subsidize textbooks.

But, overall, this is an important book—and an interesting and readable one to boot. It is important for those with immediately identifiable interest in it—teachers, for example—and for a much wider audience as well. It is a book for the general public. We all have a stake in how American history is taught—and learned.

*Reviewed by* **Ernest Hilton,** *former editor-in-chief of the textbook division of a major publisher. Now retired, Dr. Hilton was a teacher and administrator in public schools and universities before entering the publishing industry.*

***The Bakke Case: The Politics of Inequality*** by **Joel Dreyfuss and Charles Lawrence III.** Harcourt Brace Jovanovich. 278 pp. $8.95; paperback, $3.95.

Authors Joel Dreyfuss and Charles Lawrence III—one a journalist and the other a lawyer—combine their insights in *The Bakke Case: The Politics of Inequality*. They explore the role of *Bakke* both as a symbol of American race relations and as a product of new competitive forces in a time of static opportunity and realignment of politics.

groups.

Despite their obvious bias in favor of affirmative action in education and employment, the authors treat fairly the complexities of the issues raised by *Bakke*. Without limiting the book's interest to lawyers, they capture the litigation process, tracing early strategic decisions through to the outcome and describing insightfully the process of oral argument and judicial deliberation.

*The Bakke Case* describes the case preparation by the University of California, with its institutional interest in obtaining a definitive ruling on the legality of affirmative action. In second-guessing University counsel, Dreyfuss and Lawrence point out the weaknesses of Bakke's medical school candidacy and also disclose important facts about the admissions process at the medical school of the University of California at Davis. For example, the task force responsible for the school's admission of disadvantaged applicants had interviewed many Whites. The *Bakke* record, however, disclosed only that Whites had applied as disadvantaged and had not been admitted; it did not show that they had been considered and rejected on nonracial grounds.

Also, because the case did not go to trial—resting instead on one deposition and a preliminary hearing—there had not been extensive testimony on the relative weighting of grades, test scores, and interviews in creating the composite numerical rating that the medical school actually used in determining admission. Nor was there sufficient evidence in the record to show that the University's stated goals for its affirmative action program—such as increased medical care for disadvantaged neighborhoods—were legitimate state goals and that the program was a constitutional way of achieving them. These omissions would cause many in the minority communities to argue against review by the Supreme Court and would haunt presentation of the case in that court.

Regarding *Bakke* as more important politically than legally, the authors relegate the case to their readers without the limitations of the poor record. They bring these issues to a court much larger than nine and urge Americans to find a solution more enduring and further reaching than *Bakke* to the problem of the underrepresentation of minorities in the professions.

*Reviewed by* **Paula A. Sweeney,** *former staff attorney, NEA Office of General Counsel; presently assistant legal counsel, United States Senate.*

(continued on page 102)




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# Books

(continued)

***Education's Lasting Influence on Values*** by **Herbert H. Hyman** and **Charles R. Wright.** The University of Chicago Press. 161 pp. $12.50.

This report continues the procedure used in the authors' earlier analysis of data from public opinion polls which showed that persons with higher levels of education exhibit greater knowledge than those with lower levels. In this book, the authors review the evidence and conclude that in situations where different values conflict, persons with higher levels of education also are more willing to adhere to basic human values than are those with lower levels of education.

The researchers analyzed responses to questions that revealed basic values held by respondents. The questions dealt with the desirability of applying certain principles (the rights of due process, freedom of information, humanitarianism, etc.) in situations in which the application might not support the respondents' own preferences. For example, would a respondent allow a public library to place on its shelves a book against religion? In most but not all situations, the respondents with more formal education favored the complete application of basic values to a greater extent than did respondents with less formal education. This finding held even when the researchers took into account the influence of other factors likely to account for differences in values (socio-economic status, age, sex, religion, etc.).

The findings are significant in view of the absence of strong agreement about what values schools and colleges should inculcate and how much attention they should give to teaching about values and also in view of the variations in students' exposure to various kinds of value development experiences in formal education. The authors infer that education develops greater receptivity to full implementation of basic human values as well as to the basic principles themselves.

This book is an excellent resource. It identifies the problems, presents exemplary procedures for researching them, and gives impressive evidence about the lasting effects of education.

*Reviewed by* **William S. Graybeal,** *research specialist, NEA Research.*

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## SOCIAL STUDIES MATERIALS

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The following publications are available from the Asia Society, 112 E. 64th St., New York 10021. Prices include postage and handling.

***The China Difference.*** Edited by Ross Terrill. Collection of essays. Discusses tradition and change, daily life, culture, and the state in the People's Republic of China. 1979. 335 pp. $8 (if ordered from the Society).

***Opening Doors: Contemporary Japan.*** Instructional manual and resource guide developed by a binational team from the Japan-United States Conference for Cultural and Educational Interchange. Designed to help secondary teachers stimulate students' appreciation of Japan and Japanese people. 1979. 421 pp. $7.50 (if ordered from the Society).

The following publications are available from the Center for Information on America, Washington, CT 06793.

***The Electoral College: How Does It Work? Should the System Be Changed?*** Revised. Virginia Eisenstein and James Eisenstein. Answers such questions as How can a Presidential candidate win the most popular votes, yet lose the election? What is the threat of a strong third-party candidate? What was the original idea and purpose behind the Electoral College? Is the Electoral College still necessary? What changes have been suggested? 1977. 16 pp. 50¢ (quantity discounts available).

***The 96th Congress and Its Committees.*** Gary C. Jacobson. Includes a roster of the 96th Congress; the area of interest of each committee; the names of the chairperson, the ranking minority member, and the members of each committee; an explanation of how the committee system works; and the correct method of addressing Senators and Representatives in correspondence and conversation. 1979. 28 pp. 50¢ (quantity discounts available).

The following publications are available from Franklin Watts, Inc., 730 5th Ave., New York 10019.

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(continued on page 104)




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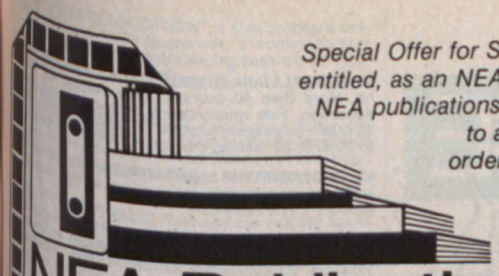

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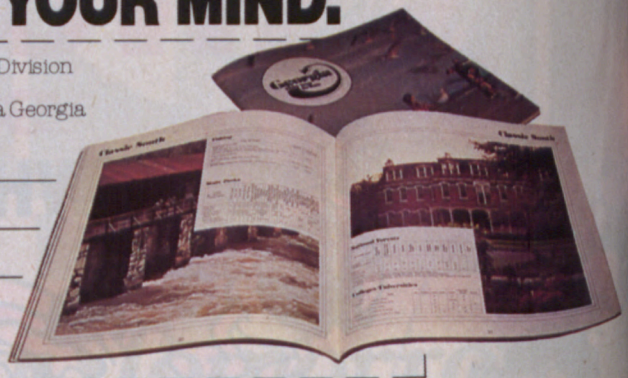

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